AA 000 791 739 6
UC SOUTHERN REGIONAL LIBRARY FACILITY

HJ
2287
G74
R433
1811

OBSERVATIONS

UPON

TYTHES, RENTS,

AND

OTHER SUBJECTS,

WITH

A PECULIAR REFERENCE

TO

IRELAND;

AN APPENDIX,

AND

POSTSCRIPT UPON CATHOLIC EMANCIPATION.

By JOHN READE, Esq.

S'AGIT DE FAIRE PENSER.

Montesquieu.

Dublin:

PRINTED BY T. HENSHALL, No. 29 NASSAU-STREET.

1811.

ADVERTISEMENT.

Compelled by precarious health to retire early in life from an arduous profession, and finding it necessary to attend to the improvement of a very moderate patrimony, of which, what is called an *Impropriation*, constituted a part; I became familiar with *Tythes;* a subject that has of late so much engaged the attention of the public, and upon which opinion still fluctuates, or is, (though perhaps unequally) divided.——In the course of the following pages, Observations upon other particulars of material consideration in the present state of Ireland, incidentally occur.—But my chief object is to suggest, from motives of growing inconvenience, the Commutation, or rather Abolition of a species of property, which, tho' strictly *legal*, and as it were consecrated by time, has never ceased, at least in Ireland, to be peculiarly invidious.

OBSERVATIONS,

UPON

TYTHES, RENTS, &.

SECTION I.

AN Historical Treatise upon Tythes, having lately appeared from the press, in which the author has, I presume, investigated his subject *ab ovo*, it seems unnecessary to enter into an elaborate disquisition of their antiquity and origin (a) a simple definition however may be useful.

Tythes then, (according to legal acceptation) are defined to be—The tenth part of the increase arising from the profit of lands—The stock upon lands—And the personal industry of the occupant—so that the circumstance of yielding a *yearly* increase designates what shall be legally subject to the payment of Tythe.

(a) In the course of last year an advertisement announced the publication of a *History* of Tythes, I have ventured to conjecture the *manner* of a work which I have not seen.

This definition, in itself sufficiently comprehensive, embraces many things of which Tythes are not at this day exacted in Ireland;—or, in other words, the claim of Tythes is not co-extensive with their general definition. In Ireland, we never hear of a demand for the Tythe of Fruit, Bees, Milk, &c. &c. Tythe *agistment*, or, for the depasturing of cattle, had not been required for many years previous to the union. At that momentous period a vague apprehension of the revival of an antiquated claim seems to have alarmed the landed gentlemen of Ireland. Less anxious for the independence of their country, they had sufficient influence to procure in an expiring legislature, an act by which Tythes agistment was laid at rest for ever.

It is certain that the claim of Tythes, however legal, is by no means uniform in the different parts of Ireland. That of potatoes, which in Munster is said to be rigorously enforced, and to constitute an aggravated ground of complaint to the peasantry of that province, is rarely heard of in Leinster, and never, in Connaught, or the North of Ireland. An irregularity of this kind, which it would be fanciful to ascribe to the moderation of the different proprietors, may with some probability be imputed to a very opposite cause. To the inconve-

nience of collecting Tythes of less comparative value in those parts of the kingdom where tillage extensively prevailed. An idea that appears to derive strength from its being known that in some parts of Ireland where little corn (to use the common but incorrect expression) is *grown*, Tythes *are* required for potatoes; which, if *there* exempted, no sufficient provision would remain for the incumbent.

As the products of the earth are all equally liable to Tythe, if insisted on, in one part of the kingdom as another, except in the case of a *modus*, which cannot extend to a total exemption we can here see how custom may contravene or render inoperative the force of a general law; and, from the irregularity I have stated, we may learn to appreciate or reduce to its true standard, the real value of Tythes in Ireland compared with the same species of property in England where the claim as to number and kinds, is more extensive and the right more duly and regularly insisted upon.

Perhaps it may be proper to specify that the usual rates of *composition* for tythes in Ireland twenty years back to a late period were; for wheat, from *eight* to *ten* shillings an acre; for oats, from *five* to *eight* shillings; barley and bere, nearly as for wheat, and for meadow,

from *three* to *five* shillings. A composition so very moderate, that an English reader, not aware of other circumstances, might be apt to conceive the complaint of the Irish farmer with respect to Tythes, to be unsupported by any adequate cause, it being evident that the rates I have mentioned bear in general no proportion to the real value of the *tenth* of the produce of the land. But, besides that these acreable rates were, from the nature of annual composition, always *variable*, according to the will and circumstances of the proprietor or tythe farmer, and subject to great uncertainty; and, that Rents in Ireland, are, and have been comparatively higher than in the sister kingdom, it is necessary to observe that within a few years, and particularly, since the union possibly with a view to an expected commutation, they have been either greatly raised, or a *new* mode of valuation adopted. The pressure of the times; the decrease in the value of money, combining with that operative principle which almost uniformly stimulates man to the improvement of his situation in life, has been felt by the proprietors of tythes.

Observing the inordinate and almost unaccountable rise in the Rents of lands that has lately taken place in this country with the increased, tho' sometimes fluctuating, price of

corn, they have hastily, tho' naturally enough, sought to raise their composition, as nearly as circumstances would admit, to the *full value* of the *real tenth* without regard to the former moderate rates, still partially retained only in those parts of Ireland where the proprietor cannot venture to enforce any other.

From these circumstances, without adverting to other causes, it need not surprise that Tythes being more *felt*, have of late been a subject of more general complaint, and more frequently agitated than at any less recent period; and hence it is, that I am warranted in affirming Tythes, as respecting the community, to be in a state of growing inconvenience; this, as it regards Ireland only; but the consideration of the relative burthen and inconvenience of Tythes in both parts of the empire, will involve an enquiry, tho' a short one, into the present state of Rents in Ireland, with some reference to its population. Of these, in the succeeding sections.

SECTION II.

Wherever *composition* for Tythe prevails, the rate of Rents cannot fail to have a powerful operation; powerful, as respects the pressure of Tythes upon those who are obliged to pay

them; and again, the degree of population more or less numerous, must, in a country circumstanced like Ireland, have an influence upon the scale of Rents. Sensible of the obviousness of this connexion, I feel it not out of place to say something upon the present state of Rents, and the relative population of Great Britain and Ireland.

The extraordinary rise of Rents in Ireland, within a very few years, must be evident to the most common observer; agreeing as to the fact, among those who speculate upon such subjects, there is however a difference of opinion as to the producing cause. By some, it has been ascribed to the encreased emanation of paper from private banks; and the advocates of this opinion reason thus: "A person desirous to take land is induced to propose an extravagant Rent, upon a presumption that before that Rent becomes due he may discharge it by discounting his own bills and receiving the notes of a banker in exchange."

But this cause, so far as it is intelligible, seems perfectly inadequate to the supposed effect; for, tho' an expedient so unprofitable might be resorted to in a particular instance, yet (unless we suppose the bargain a beneficial one) it must be with a success so precarious that

the frequent practice might be expected to terminate speedily in the bankruptcy of the party. Besides, if the reasoning of those, who impute this consequence to an encreased paper currency, and the facility of discounting, was not fallacious, it would be natural to suppose, that the same circumstance should have operated to the raising the price of the *fee-simple* of lands within the same period. Yet, of such an effect we are not conscious. On the contrary, the price of the fee is not raised, and even that of leasehold interests remains stationary; and while lands, which ten years back, could be had for *twenty* shillings an acre, now let for two guineas; the *fee-simple* remains still at twenty years purchase. The truth is, that various causes, very different from the multiplication of *banks*, have co-operated to the same effect. Of these, the first and principal, may be supposed the *advance* in the price of *corn*, the product of the land. If we proceed to enquire into the causes of this advance, it may without reference to any increase in the population of Great-Britain and Ireland be fairly deduced, from the waste and extraordinary consumption, which must have taken place in the course of a long war; from the decline and imperfect cultivation of those countries upon the continent where that scourge has so long wasted. The demand for, and exportation of

corn from Ireland to England and Scotland, (where there is reason to suppose that lands are allocated to pasture and pleasure-grounds in a *too great* proportion) which has of late greatly increased, may be assigned as another very efficient cause (a)

It must be confessed that when bankers are enabled by legislative authority to refuse payment in *gold* for their notes. There is no calculating to what amount the issue of paper may take place, (b) and how far this issuing of

(a) " In the countries thro' which I travelled in England, on my way either to London, Oxford, or Portsmouth (says an intelligent French traveller) I saw scarce any thing but commons, meadows, large ~~hedges~~, wild heaths, and very little arable land. This gentleman ascribes the exportation of corn from England which then prevailed, to the *address* of the Merchants in contriving to export as *English* wheat, a considerable quantity of grain, which they got from the North of Europe. To the excellent cultivation of the English farmer (who spares no expence) of such lands as are in tillage, but principally to the *small* consumption of corn, by the English " six or seven ounces of bread are sufficient for the daily subsistence of an Englishman even of the lowest sort, who live chiefly upon animal food." According to this writer one half of England is, and ought to be in pasture. Is this distribution the *effect* or the *cause* of the National taste? Obs. upon Eng. 75. 153.

(b) Upon a late trial it appeared that the bank of Ireland had greatly exceeded in the issue of notes the sum allowed by ~~its~~ charter.—Malone's Trial, p.

notes without limitation, and filling the country with paper circulation may have the effect of raising the price of grain beyond its natural standard, and so, by a mesne the Rent of Land, cannot be exactly stated. But, if this redundancy of bank paper be considered as precisely analogous to a redundancy of coin there can be no hesitation in saying that it must have operated to raise at least, the *nominal* price of those commodities which come to market ☞perhaps with the exception of corn, of which the nominal and real price are ever the same.☜

To the causes above mentioned may be added as mediating and contributing to the same effect, a circumstance not perhaps generally adverted to; I mean the facility which has of late been afforded to Tenants of a poorer description, of procuring small farms by sub-division, and even without it in many cases: by this deviation from former practice (a deviation easily accounted for) a *new* and *numerous* class is introduced to the market, or rather *auction* of Land, which may be said to obtain in Ireland. Persons of the description alluded to will be sure to propose *higher* Rents than those who being more substantial, may be considered as more unerringly solvent. Heretofore, the *quantum* of Rent abated something for the goodness of the *insurance*.— At present necessity seems to have made the

highest, tho' not the most *solvent* Tenant, the primary object with landlords.

As Rents in Ireland have arrived to a heighth not to be accounted for by the rise in the price of grain simply, and without reference to the concurrence of other causes, we may conclude that a fall in the price would not have the effect of reducing Rents absolutely to the pristine standard. A reduction to a certain degree may be expected whenever the return of peace shall abate what may be called the *feverish* prices of the present times to a more healthful medium, altho' the degree to which the Rents of Lands may decline in consequence cannot accurately be computed. (c)

(c) Altho' the intelligence may not be grateful to landlords, it may be affirmed that no Rents that exceed *thirty shillings* an acre for lands in Ireland can be considered as *permanent* and well *secured*. I am acquainted with a farm of good quality, and considerable extent, the lease of which having lately expired, has been re-taken at *fifty shillings* an acre. The Tenant unable to pay the Rent by holding it in his own hands, has been obliged to set over in *small divisions*, at *fifty-six shillings* and *three pounds* an acre according to the quality. The *Under-Tenants*, who have not held it more than *two* years, are, as I understand, on the verge of insolvency. The Persons who [illegible] the same lands under the former lease at *twenty-five* and *thirty shillings* an acre, were barely comfortable. Under the above standard are not included lands in the vicinity of *towns*, or otherwise favorably circumstanced; or which ~~have~~ been for many years in *pasture* may be broken up to advantage.

It should in its proper place have been observed, that if the rise in Rents was to be imputed *solely* to the increase in the price of grain, it must naturally be in exact proportion to that encrease, yet the fact is *not* so. Upon an average of the last eight years, it will be found that the prices of corn have not exceeded more than one third of the preceding years; yet we know, that during the same period *Rents* have more than *doubled*.

SECTION III.

Rents comparatively higher in Ireland than in England.

In commercial countries the profits of the merchant, and the high wages of the manufacturer and artist which flow from these profits, contribute to advance or to maintain the Rents of Lands. Thus, in England, where commerce has long flourished, where the artist might be said (at least previous to the war) to derive from countries most remote, compensation and reward for superior skill and ingenuity. In England, where agriculture in all its branches is supposed to have arrived at a high degree of perfection, it might be expected that

the comparative scale of Rents should range *higher* than in Ireland (a) where Trade does *not* flourish, where manufactures, with perhaps a single exception, languish, or are extinguished; and where agriculture tho' gradually extending ~~is~~ as a science, but imperfectly understood. Yet, that the fact is otherwise might be demonstrated or inferred without farther illustration, from the more prosperous and decent appearance of the establishment of the English Farmer, were it not so much the custom to ascribe ~~it~~ to *other* circumstances.—To a greater degree of industry, frugality and management that superior appearance which tho' greatly influenced and improved by example is the primary result of a certain degree of opulence, of wealth, and of capital. Without having recourse to this mode of reasoning, it might be easy from actual enquiry, to establish—that the Farmer who cultivates the soil in England retains to his own use a larger portion of the profits, or which amount to the same thing, pays *less* rent under corresponding circumstances than the Irish far-

(a) The heavy duties laid some years back upon spiritous liquors, induced clandestine distillation to a great degree in many parts of Ireland; operating to a rise in the price of grain, and consequently of land. The suppression of this practice in which the officers of the revenue seem at present laudably active will however produce the natural consequence.

mer, (b) and it is equally easy to perceive that without a degree of relative wealth and independence, in vain shall we look for those appearances of neatness and of order which in different gradations and shades mark the accommodations of social life.

SECTION IV.

The same Subject continued.

The idea of the happy *farmer* of the poet Claudian, "who grew *old* amongst his cotemporary trees," may, or at least *might* not long since have been realised in England (a). Still

(b) The Rents paid by the English farmer do not render him incapable of paying *poor rates*. The Irish farmer must sink under such a system. The inference as to the comparative state of Rent is obvious.

(a) Ingentem meminit parvo qui germine quercum
Æquævumque videt Consenuisse nemus. Claud. Epigram.

In a panegyric not inferior in elegance, to his portrait of the emperor Julian, Mr. Gibbon has by a climax eminently beautiful, given a splendid idea of the genius of this poet. "In the *decline* of arts and of empire—a native of *Egypt*—who had received the education of a *Greek*—assumed in a *mature* age—the familiar use and absolute command of the *Latin* language, soared above the heads of his feeble cotemporaries, and after an *interval of three hundred*

happier, *the son* of the *English* farmer might be, certain of cultivating in the shade, the lands which his ancestors enjoyed before him. In that (in this respect happy country) altho' the Tenures are often nominally at will, or for short terms of years, the Tenant is in no danger of being compelled to relinquish the paternal habitation to make room for a stranger. Upon the expiration of the lease, an English Landlord either agrees with his Tenant (if an increase of Rent be required) according to a scale (b) generally known with a due allowance for improvements; or in case of disagreement, (which rarely happens,) is obliged to take the lands into his *own* hands. This usage long established is beneficial to both parties.

years,—placed himself among the poets of ancient Rome. The Episode in Virgil beginning with

> Namque sub Æbaliæ memini me turribus Altis
> Qua Niger humectat flaventia culta Galesus
> Corycium vidisse Senem ———

describes a somewhat similar instance of happiness, the result of industry in humble Life. I have taken some latitude in considering as a *farmer* the happy old man of Claudian.

(b) An Irish gentleman who had an estate in England, not being able upon the expiration of the Lease to agree with his English Tenant, prevailed upon a person from Ireland to take the Lands, who accordingly entered into possession. But mark the sequel! At *market* no one would *buy from* or *sell to* him, and in fine, to avoid bankruptcy, he was obliged to surrender the land.

The Tenant unwilling to abandon the objects of his early and local attachment and knowing that the Landlord may, in case of disagreement, take the land into his own occupation, will naturally be disposed to advance the Rent in a reasonable proportion; on the other side, the Landlord who has but one alternative, and to whom that alternative may be inconvenient, will generally find it his interest to accede to the proposition of his Tenant. Little would it avail to set the Land by *advertisement* in the public papers. A very liberal custom in England, long prevailing (that no man will propose for a farm in the *tenantcy* or *occupation* of another) *there* operates as a powerful check upon the avarice of Landlords (d). To this circumstance also it is owing that what is called the *tenants* right of renewal, in Ireland so little respected, is in England, considered as a valuable and disposable interest. The influence of a custom (if I may be allowed so to term a usage apparently so honorable to the self-denial of the English) must be so powerful, that, independent of any other cause, it would warrant the assertion *a priori* that ~~the~~ Rents of lands must be *lower* in England than in a country where no such custom prevails.

(d) In England the landlord is supposed to receive no more than one-*third* of the computed profits of the farm for Rent; the other two thirds remaining to the farmer; for expences of labour and for profit.

SECTION V.

The same Subject continued.

Let us see how this matter stands in Ireland. Immediately upon the expiration of a lease, but very frequently before it, an *advertisement* in the public papers, invites all persons inclined to propose for the farm. Not satisfied with this *general* invitation, the advertisement frequently concludes with this addition; "that *no preference* is promised to the Tenant in possession, or will be given to any but the highest bidder" (a). Some instances of a different mode of proceeding may be found amongst a few more liberal owners of large estates in Ireland, but they are so *rare* that what is here stated, may well be considered as the general practice.

Two consequences are the result of this mode of proceeding; first, that Rents are sure to be raised to an extravagant height; and secondly, that Tenants make *no* improvements from a well founded apprehension, that at the expiration of the lease, they must either *pay* for their improvements to the utmost value in advanced Rent, or see both land and improvements transferred to a stranger. Whether this last consequence has any material effect upon

(a) These expressions are taken from the daily prints.

Tythes as to the value and facility of paying them I shall not here enquire; but it seems evident that the higher the *rate* of *Rents* in any country, the more severe must be the pressure of *Tythes* upon that part of the community who pay them.

Intending to resume this subject hereafter, I shall for the present, content myself with remarking, that this observation, like many in the preceding and subsequent pages, is more particularly applicable to a country where Tythes rest in *composition*, or are usually compounded for.

SECTION VI.

Of the Population of Ireland.

As the strength of a nation is estimated by the degree of its population, an opinion has prevailed that population can never be *too great*, and altho' the truth of this opinion has been in modern times a good deal questioned, it still appears to have gained strength, from an impression that the conquests of the French have been atchieved more by the physical force of numbers than by any superiority of discipline and valour. It is plain, however that the French have been victorious, not so much by the excess of their relative population, above the

nations to whom they were opposed, as by the *extraordinary* power vested in the executive, of calling almost the entire of that population into the field by virtue of a memorable law, generally called the law of *the Conscripts* (a). How could it be supposed that armies sustained by recruiting, or, as in Russia, by taking the *tenth* man by the Imperial edict, should be able to resist or overpower (even allowing an equality in tactics) the whole of the French youth called into action, under the operation of this law? It is nothing, to say that the law itself is a violation of natural liberty. Admitting this to be the fact and that no power but that of the people could have enacted such a law, still we know that the emperor of the French has availed himself of an institution congenial with a revolutionary spirit in order to establish a form of government of a very different nature. The law of the Conscripts ought naturally to have ceased with the revival of monarchy in France, and if it should

(a) This law was adopted on the motion of a French *noble* in the most revolutionary time of the French republic, upon the ground of enabling France to resist the combination of the powers of Europe, and it must be confessed that its effects have been tremendous! Rev. Plut. *article* Menou.

The book here cited, and the memoirs of the *ex-bishop of Autun*, are works of an extraordinary kind, and descriptive of singular immorality—but having lately heard it suggested a doubt upon the subject, I am at a loss to know whether they are to be considered as *true* or *fabricated*.

not be repealed with the return of peace, it would be difficult to imagine a system of slavery more complete than that of the French nation. So great however, are the advantages supposed to arise from an *immense* population, that a learned *prelate* is stated to have observed (in the course of an eloquent speech delivered not long since in parliament, upon the best mode of producing national security) that England, Scotland and Ireland, might with due encouragement maintain a population of *thirty* millions. Yet it is not easy to say, in what manner this idea could be realised, nor what order of society would result from a population so disproportioned in the extent of territory.

Ireland (to confine my observation to that country) according to Dr. Beaufort, contains about eighteen millions of acres of land; which, divided by four millions, (the supposed number of inhabitants, according to Mr. Bushe) would give but four acres and a half to each individual, without the allowance that must be made for unprofitable land; for mountains, bogs, lakes, and rivers, of which Ireland possesses so many, but for which, if a deduction is made, the proportion to a family of five, would not exceed fifteen acres and a half, or about three acres, and little more to each individual; and if we extend our ideas of Irish population (according to writers still more modern) to *five*—to *six*-mil-

lions. The proportion of the number of inhabitants to the extent of the country, is nearly at present as great as could be consistent with order, comfort, or civilization. I say in the *present* circumstances of the country—because a great encrease of trade and improvements in manufactures, might, by opening new sources of industry and providing for an excessive population, relieve even the inconvenience resulting from Agrarian laws, and so afford a different view of the subject.

After all—could we suppose with the learned prelate above alluded to, that these countries were *actually* occupied by a population of thirty million; still without a law similar to that of the *Conscripts*, the full force of the country could not be ~~arranged~~ against an enemy. But such a law, unless in case of actual invasion, would be so inconsistent with liberty, that to enact it would seem to extinguish the spirit of the British constitution.

SECTION VII.

The career of the French will be stopped whenever the sovereigns of the continent shall think proper to give their subjects *some interest* in the constitution, which they are expected to defend. Should it not be thought prudent to allow them a share in making those laws, by which they are governed, or in the laying on of those taxes which they are obliged to pay. If it be deemed inexpedient to impart a share of *political* power, let the inhabitants of the

continent of Europe be admitted to a portion of civil liberty. Let the *trial* by *Jury*, an institution of at least as much value as a parliament be introduced among them,—(a) let there be no more *sending into Siberia*. If it be true that at this day Russian subjects are brought as slaves to *market* with *tickets on their foreheads*, (b) can *such* men feel a spirit of resistance against any invader? In Russia, the monarch, the nobles, and the people are equally slaves. Under a moderate government; Peter the Third might have died a natural death, and the emperor Paul would not have been assassinated in his palace.—And whatever may be said to the contrary, in the due limitation of his power, the sovereign himself—the nobles—and the people find their security.—In a government so constituted the sovereign can hardly make *personal* enemies.

(a) The French, in imitation of the English have introduced the trial by jury into their new constitution; but, (for what reason does not appear) it obtains in *criminal* cases only.—In Scotland they have *no jury* in *civil cases*. Some improvement of the laws of Scotland, was said to have been contemplated by the late ministry, or at least by Mr. Fox.—It may be presumed that a remedy for this defect was one of them.

(b) See Chantrou and Magill, two recent travellers,—the one French the other English.

According to Mr. Wraxall the condition of the Russian peasants in the sixteenth century, tho' abject was distinct from slavery, they might quit the estate of their landlord and enter into a new occupation or service at pleasure, but they felt so little, either the dignity or the charms of freedom, that they were accustomed to sell themselves and voluntarily to renounce the prerogative of liberty!——View of the state of Europe, p. 560.

SECTION VIII.

A Reflection.

It would be a grateful spectacle to a philosophic and religious mind, (a) to behold a nation possessed of a good civil and political constitution, *industrious* in recommending it to the adoption of the neighbouring nations.—For instance, it would have been glorious for England, when she had influence on the continent, to have endeavoured to introduce some of her best institutions.—But what shall we say would be the effect, were there institutions to be received by the great nations of the continent upon the happiness of the people and the tranquillity of Europe? There can can be no doubt of the advantages that would result to the *subjects* of the different kingdoms, from the introduction of the English form of government.—It is true, a greater disposition to *military* enterprise and greater energy in the execution, might be the consequence of a higher spirit of freedom—but, as this spirit would be the *same* every where,

(a) Connect the ideas of philosophy and religion;—nor do I see how they can be separated.

the resistance to oppression would be proportioned to the disposition (if any) to invade;—this is, as respects the nations of the continent.—England in her relative state and as a maritime power could hardly be prejudiced by such a reformation.

SECTION IX.

The population of Ireland, tho' perhaps not equal to what (for political purposes) it has been of late represented is certainly great (a). It is, however, very unequally distributed; and very inadequate ideas of the truth may be formed by a partial or local inspection of the population of particular districts. In general, and as contrasted with England, the Irish numbers will be found dispersed in the *country*, while the population of England is collected in *towns* and *villages*. This difference, so evident to a traveller, naturally results from the relative state of the inhabitants of both countries and

(a) Those who wish to give weight to the Roman Catholic claims, in their publications, represents the Catholic numbers alone at five millions or four millions and a half. On the other hand, Dr. Duigenan estimates the *whole* population of Ireland at no more than three millions, and the proportion of Roman Catholic to Protestant at no more than three to one. The first calculation may be, and probably is erroneous. The second is certainly so. Yet I am acquainted with districts, where the numbers are as a thousand to twenty-five, or forty to one. I may hereafter inquire into the causes of so great an inequality.

and their respective employments—a *manufacturing* country *collects* its workmen for the benefit of mutual convenience; but in Ireland where the population is chiefly supported by *agriculture*, the labouring classes become *distributed* according to their avocations: and if the *linen* manufacture seems an exception, it is to be considered that from its nature (tho' even this has been questioned) it may be best conducted in the country.

SECTION X.

The common observation that "an Englishman marries to *support* children, and an Irishman, *to be supported by them*," has more in it than *point*. In general, an English labourer remains single till he has realized something to maintain a family.—The Irish peasant *marries* with little reflection, and trusts to providence for the future;—From this difference it is, that marriages amongst the lower classes take place at a more early period of life in Ireland, than in the sister kingdom.—Throughout Ireland it is rare to find labourers unmarried after twenty-five years of age, and in the province of Connaught, marriages between girls of fourteen and men, or rather *boys* of eighteen are very frequent.—In England, a country *farther* advanced in refinement, to form an establishment, even in the humble classes of life, becomes

a matter, comparatively of formidable expence,—contrasted with the cabin of an Irish peasant, an English cottage is a magnificent edifice, and its furniture in a style equally superior;—again,—it costs less to procure oatmeal and potatoes, the ordinary support of the Irish peasant, than wheat bread and animal food, which the English consider necessary to their subsistence.—From these premises it naturally follows that the population of Ireland must, without resorting to other causes, be greater in proportion to the extent of country, than that of England. As an additional argument in support of this position, it may be maintained that population will encrease in a much greater degree, in a country purely or nearly *agricultural*, than in *towns* and *cities* the seats of artisans and manufacturers.—For we know it has been computed, that were it not from the influx from the country, the population of great cities would gradually *decline* and at length become extinguished.

(a) The physician or the naturalist may decide, how far these *early* marriages conduce to strength of mind or body in the *decendants*.—But with respect to the *parties* themselves; that extraordinary man lord Herbert of Cherbury, eminent for both, *tells* us that he was married at *fifteen!*

Life of Lord Herbert of Cherbury.

SECTION. XI.

As in Ireland trade and manufactures do not flourish, *land* is almost the *only thing* that comes to *market*, for which an ample population furnishes a number of competitors; and to their competition may be chiefly imputed the *extravagant* Rents, that are every *day* proposed for lands,—an effect that had at all times a similar and proportionate operation, and which must naturally encrease with the growing numbers of the society. And here I may be at liberty to suppose what seems practically true, that the *English* farmer *not* exposed to a similar competition, and, in consequence, holding his lands at a moderate rent may be enabled from the *profits* of his farm to raise a capital to advance his children in different trades and professions, without being reduced to the necessity of *selling* or *subdividing* the farm itself. An Irish farmer on the contrary, who generally holds at a *rack Rent* (according to the common acceptation of the word) can realise *little* to establish his family in any line but that of *agriculture* in which he has himself grown old, of course, in the scarcity of lands to be taken *de novo*—a general mode of provision for the children is to *sub-divide* between them the farm itself (frequently of small extent) upon which they form still smaller and separate establishments. A practice thus originating from necessity and continued from one generation to another,

becomes in time a fruitful source of poverty, distress, and population. It is indeed *here* a common observation that where a family collectively have lived with a degree of comparative ease; a *division* of the farm amongst the children has introduced declension and decay.

Ireland thus presents to view a country, where, from the want of trade and manufactures, a numerous population is with little exception compelled to such a livelihood from agriculture; from ~~which~~, among other ill consequences has resulted the *low* rate of labourers wages; which naturally must find its level, and can never in sound policy be regulated by legislative authority. In some countries, America for instance, labourers and the sons of labourers *rise into farmers*. In Ireland, the converse of the proposition frequently occurs, and helps to overstock the *labouring* market. It is thus, that a numerous may become a burthensome population; to provide for, and dispose of which may become an arduous care of government.

(a) The inconvenience now felt from an *unprovided* for (if I may so say) population in Ireland, has arisen from the impolitic conduct of England in times past. Had the manufactures of the former country been early and duly encouraged she might have advanced *pari passu*, and *manufacturing* might have afforded aid to *agricultural* industry in the support of her population. But when were nations clear sighted to their real interests?

Nothing can contribute more to the distress of the peasantry of Ireland than the rapid diminution now taking place (from causes to be mentioned hereafter) in the numbers of resident country gentlemen and small proprietors of land from whose industry and taste they were accustomed to derive employment

SECTION XII.

Of the Disturbances which frequently occur in Munster

Some writers are fond of imputing to a peculiar spirit of disaffection to the government the outrages which more frequently occur in Munster than in the other provinces of Ireland. No opinion seems more unfounded. At the period of the late rebellion the inhabitants of Munster were not more active than those of Leinster and Connaught;—the *real* causes are to be found in the *dispossession* of *tenants* on the expiration of their leases in favour of higher bidders, aggravated by the difficulty of getting land to farm in a country where grazing so much prevails or which is perhaps already fully peopled. In the *subdivision* of farms (a) or rather the necessity that induces it, which furnishes another source of discontent; for *sons* of *farmers* do not chearfully submit to the dependant state of *labourers*. In addition, if it be true that an exorbitant composition is exacted in Munster for some products of the earth, *potatoes* for instance,

(a) The decline, or rather, the limitation of grazing is a necessary consequence of the increase of farming, tho' in fact, they ought to be judiciously combined; but after a certain period a too great subdivision of lands connected with exorbitant rents may (the farmers becoming bankrupts), introduce grazing upon the decay of agriculture.

(b) It seems that nothing but the establishment of manufactures in Munster can render that country permanently tranquil.

for which Tythe is *not* required in the other provinces, and in general, if the composition for Tythes be much higher *there* we need not be at a loss to form an adequate opinion upon the subject.

Even in the north of Ireland, altho' the linen manufacture, affords some employment for an increasing population, and altho' the land is greatly subdivided, yet emigration is very frequent. In Leinster, and the west of Ireland agriculture and the subdivision of lands are progressive. But Whenever those who once were *farmers* are deprived of their lands or find them too narrow for increasing families, discontent will certainly be consecutive; and, that it does not show itself as frequently in other parts of Ireland may be ascribed to this, that the causes which conspire to produce the inconvenience I have described do not exist in equal degree as in the southern province.

SECTION XIII.

In the preceding sections, I have endeavoured to deduce the uniform high rate of rents in Ireland from the equally uniform practice of letting lands by *advertisement*, (a practise unknown in England) to which may be added that not infrequent one of taking lands *in reversion* as before the expiration of a subsisting lease; the apprehension of which, stimulates the

tenant in possession to propose a rack rent at the same time that he fears to make improvements of which the effect would be to attract more numerous bidders, but principally from the circumstance of the lower orders having no choice of trade or manufactures, nor capital to pursue them; from which it follows that, having no other resource, they must become day labourers, or take land at any price however exorbitant; an alternative that (such is the natural love of independance or the appearance of it) they are sure to embrace (a) and it is needless to demonstrate, that in a country *purely agricultural* the wages for that species of labour will not rise to the same level as in a country where trade and manufactures, and the employments connected with them furnish regular and constant occupations to a large portion of the people.

(a) The severity of the agricultural system continues itself by continuing the poverty upon which it acts, and those who would escape from it find few manufactures and little trade to employ them had they the capital and the education necessary to either. The choice of such persons is between being the master of day labourers under their landlords; or a labourer under other masters.

Hist. Rev. France by M. Rabaut de St. Etienne

(b) In parts of Germany if the rent is paid in money it only leaves so much in the hands of the farmer as enables him to live and pay his workmen; *but* the Rent is frequently paid in kind amounting to a settled proportion of the produce and this proportion is *so fixed* that tho' the farmer should be distressed by a bad winter the rest will not afford him the means of approaching to independence. In other countries it may be asked (altho' we can suppose the ingenuity of the landlords to be great-

SECTION XIV.

Of Middle Men or Mesne Tenants.

Middle men (the term being descriptive of the nature of the tenure) in Ireland, are, or rather were, persons who holding from the owners of the fee, were accustomed to let over the whole, or a part of the same land to other tenants, generally at an advanced Rent. This species of tenure, becoming every day more rare, would scarcely merit observation, had it not been frequently selected as a subject of animadversion by some of those public characters

er than that of the farmer at the commencement of the bargain) how comes it to pass, that, as the rent must be felt, the tenant will consent to remain under the burthen, or can be succeeded by any other upon the same terms? *Here*, however, the question is not applicable—it presumes a *choice* of situation which the country does not afford. [Mrs. Radcliff's journey thro' Holland, Germany, &c. p. 152.] I have made this extract (of which a part seems so applicable to Ireland) from the *grazer* work of a lady who may justly be accounted the *inventor* of the *new* romance.

Since the above was written; the death of this admired writer to the regret of the lovers of polite and chaste literature has been announced in the public prints at the advanced age of *seventy two*. From this, it should seem that her first work (I believe the "Romance of the Forest") was composed at a *mature* or rather *late* period of life. A memoir of the lives of the celebrated female writers of the present day would form a very interesting piece of biography.

who turning from the *real* and more obvious causes of the poverty and discontent of the peasantry and lower orders of the people of Ireland are fond of ascribing both to a circumstance wholly inoperative; or, if at all, to a contrary effect. (a) It is somewhat curious that it was at one time in contemplation with our financiers to have made *middle* men the subject of some peculiar mode of impost or taxation; but, as this idea of interfering with a matter which does not seem to be within the ordinary sphere of the financier or the politician, has not been *explained* or reduced to practice, we are at a loss to conjecture why a description of persons, who, in the peculiar state of Ireland might rather be considered as *benefactors* to the lower and poorer classes were to have been mulcted for their services. Aware however that the opinion given may seem to militate against the *general* one, I wish to be more particular in the examination of a question which I may be allowed to state in these terms:——A. owner of the estate, lets a farm to B.—of whose solvency he is satisfied.——B. finding it perhaps inconvenient to occupy the whole, lets a part to one or more tenants at an *increased* Rent, which will naturally be proportioned to the Rent paid by the first tenant or middle man. Such is the analysis of a practice which has been *held forth* by theorists, as productive of poverty, discon-

(a) Middle men might have been considered as *insurers* of the Rent for a certain premium to the landlord.

tent and distress in different parts of Ireland, but with little foundation! for is it not evident that the mesne tenants by *setting over* imparts to or shares with his under tenants, some portion of the profits, whatever they might have been, which, by retaining the *whole* of the lands in his own hands, he might have engrossed to himself. The question, in short, comes to this; whether it is better for the community that the profit of a farm should contribute to the support of a *number* of families, or, of *one* only, a statement that may appear sufficiently decisive. But the lower orders in Ireland complain—*not* of those who *do*, but of those who *do not set* over to others. They complain of persons who

The opinion of Dr. Johnson will not perhaps have as much weight with the reader upon a subject of this kind, as upon one of a more literary nature. The *Tacksmen* of the Hebrides, corresponding pretty nearly with middle-men in Ireland, are by him, considered as a *useful* order of tenants.

Journey to the Western Isles, p. 137, 139.

But his reasoning seems to apply more forcibly to countries where the principles of agriculture are not well understood.

(c) It has been observed that this description of tenants would soon be extinct, but the cause has not been mentioned. There will be *no more middle-tenants*, because landlords now let their lands at Rents so exorbitant, that no man in his *senses* sufficiently solvent, will hereafter take an *under*-lease. And yet, clauses, *restricting the tenant from setting over*, and non-alienation, are *gravely* inserted.

(d) The late lord Clare was much in the habit of imputing to the existence of middle-men the turbulence and outrage of the lower orders in the south of Ireland.

occupy large farms in *grazing*, upon which they do *not reside*, and who neither set over, nor give employment to the labourer by farming themselves, or by those improvements which every *resident* tenant must make in a greater or a less degree. It is then to the *non-resident* grazier, who covers with sheep and oxen large tracts of country that the peasantry who wish to be *farmers* themselves, are inclined to impute their poverty, low wages, and dearth of employment. Yet, I am persuaded that if it were practicable to reduce every acre in the kingdom to tillage by an Agrarian law, in no very distant period the inconvenience of an overflowing population, not relieved by the mechanic arts, would be felt as it is at this day.

SECTION XV.

Lord Clare.

In the unbiassed situation of a person whom he neither *injured* nor *obliged*, I have had an opportunity of contemplating, and can speak dispassionately of the character of this nobleman. Whilst he presided in chancery, by the celerity and, generally speaking, the ability of his decisions in every case that came before him, he rendered eminent service to the suitors in that court. Unfortunately, after he was raised to a judicial situation, his *manner*, before somewhat

petulant, not improved by that accession of prosperity and of honours, which might naturally have *softened* an irritable temper, became on the contrary, unconciliating-frequently supercilious—generally ungracious,—and during the time that lord Clare presided, it was *entertaining* enough, to observe the demeanor of the *Bar* in the court of chancery; not unlike that of school-boys timidly reciting before a severe pedagogue—*Pueros sævo credas recitare magistro.*

A sound and *acute* lawyer, with an admirable memory, he spoke *well* to matters of law, and delivered himself judicially with great clearness; but, of the other qualifications necessary to constitute an orator, he seemed to possess none, except nerve and intrepidity. In his politics, sometimes erroneous, and inclining to arbitrary principles, he was yet so consistent as to justify the opinion of his acting from conviction; and to his steady adherence to Mr. Pitt, in the business of the *regency*, he was indebted for the chancellorship of Ireland. In the remarkable contest which occurred some years back, respecting the *election* of a lord mayor for the city of Dublin, he was, upon a *legal* point, which could hardly admit of a doubt, most unaccountably mistaken. By a *perseverance* in that mistake he became utterly unpopular, and gave opportunity to the present master of the rolls (Mr. Curran) of pronouncing

before the privy council, a *philippic* against him, perhaps the most severe in the English language, which, it would have been more magnanimous in lord Clare to have *forgotten* upon his elevation. He is supposed to have been a principal agent in accomplishing *the Union.* A measure of which in the short perio l of his life that intervened, he is said to have sincerely repented.

Of the *fortiter in re,* possessing perhaps *enough ;* but of the *suaviter in modo, too little ;* he became obnoxious to a numerous body of the people, (the Roman Catholics) more exasperated perhaps by an irritating and unguarded mode of expression, than by his opposition in *essentials* to their claims.

In private life he appears to have been amiable; in his friendship steady and persevering; and, it would be injustice not to mention that he is universally admitted to have been a most considerate and indulgent landlord to his tenants, who were probably, most of them Roman Catholics. His death, in the vigour of life, in full possession of all those honours

(a) From a wish to relieve the subject from the heavy expence of suing in the superior courts of equity, for the recovery of matters of small value, lord Clare is reported to have had it in contemplation to transfer causes of that description to the jurisdiction of the *assistant barristers,* but I am a stranger to his plan for effecting a change so desirable.

which can gratify the ambition of a subject—furnishes *another* instance of those mutations which ought to teach man how to appreciate talents, prosperity, and even existence itself.

SECTION. XVI.

It having been discovered that considerable profits were made by their immediate tenants. Landlords have of late, with an appearance of liberality professed to renew to the *under* tenants; Thus enriching themselves by the profit which formerly contributed to the support of the families of the middle men —The truth seems to be, that the pressure of heavy taxation, combining with other circumstances, has *compelled* the owners of estates, to resort to every mode of augmenting their income, and all interests not connected with *self*, are disregarded.—In consequence, it is not unusual upon the expiration of a lease, to solicit the under tenants to propose for the lands, which they before held from the immediate tenant. Thus inducing to a breach of, (at least, an *implied* compact that upon the expiration of the lease, they, (the under tenants) would render up the land to the hand from which they had received it, *without entering into a competition* with the original lessee for a renewal. As the solicitations of *landlord* are generally successful, the result is likely to be, that here-

after *under* leases will not be made, even where there is *no* restriction by clauses of non alienation.—A consequence perhaps injurious to the lower classes of farmers, particularly upon the estates of large landed proprietors and absentees, where this tenure by mesnalty principally prevailed.

SECTION. XVII.

Of Clauses of Non-alienation and other restrictive Clauses in leases.

The landlords of modern times, (amongst many other unnecessary and frequently irrelevant) are in the habit of inserting clauses *restricting* the tenant *from setting over*, and of *non-alienation*, under heavy penalties, sometimes *forfeiture* of the interest, even when those of *non residence* are dispensed with. *restrictions* of this nature, originating in a wish to retain a *dominion* in the disposition of land, where the actual enjoyment and usufruct as to all beneficial purposes, has been parted with, seem different in their political effect. In the present state of Ireland, restrictions upon setting or subdividing farms, appear at least *prima facie* prejudicial to a large portion of the community, while provisions enforcing *residence* seem likely to have a contrary effect; but, upon considerations of public utility, *no* clauses could be of

more advantage to the labourer than that which should oblige the tenant, whether resident or not, to *appropriate a certain portion of the farm to agriculture* (a) thus operating to blend grazing with tillage. Yet, with some speculators nothing can be right, while *any* portion of the lands of Ireland remain in pasture—to please them, the race of *horned cattle* should be extinguished and cloathing of every description purchased from the neighbouring countries, while others, *more moderate*, complain that *too much* land is devoted to pasture, and too little to the plough. To the theory of the first no *serious*

(a) In leases lately made I have seen clauses which ought upon principles of *public policy* be rendered inoperative by legislative authority, of this kind are those which restrain tenants from breaking up or employing in tillage the whole, or a certain portion of the farm, in *some* cases during the *whole* term; in others, for some time previous to the expiration of the lease. (I speak not of ancient meadow) it is equitable that the tenant should have the full benefit of his farm whilst his lease subsists; for, whatever landlords or graziers may say, every competent judge knows that a *single fallowing*, and sowing *with hay seed*, will bring an impoverished farm again into good order for grazing; thus it stands as between *landlord* and *tenant*. But, as respects the *community* at large there can be no doubt that the interference of the legislature is loudly called for to check or invalidate such improvident and absurd restrictions; leases have heretofore been made in Ireland for the term of *three lives* or *thirty one years*; very lately some landlords have proposed to introduce terms of *fifteen*, or even *seven*, years; professedly in imitation of the English custom of short leases, *never reflecting* that in England a lease for seven years may be regarded as a *permanent* tenure where nobody will bid for land in the occupation of another.

answer can be given; but to the advocates of the second opinion, I submit it to determine; in a country of the given extent of *eighteen* millions of acres with *five* millions of inhabitants, what should be the *relative* proportion of land allocated to *tillage*, to *meadow*, and to *pasture* in order to produce, in that respect, the greatest degree of national prosperity? To arrive at the conclusion of this proposition, if the premisses submitted are not sufficient for the *philosophic* statesman, I can furnish no other.

SECTION XVIII.

Observations connected with the preceding subject.

As native Englishmen and absentees are proprietors of considerable tracts of land in Ireland, it might naturally have been expected that would have been countenanced or introduced the English mode, before referred to, of accommodating matters with the tenant on the expiration of his lease; but, as on the contrary, *they* also find the advantage of setting their estates by a *advertisement*; and, as the honourable principle of *not* interfering with the tenants right does not at present obtain here (tho' it did formerly) lands, in Ireland, as before observed, are raised to a rate far beyond what lands of the same quality would produce in England. So powerfully does a *local* custom operate in favour of

an English farmer, that no other cause of his superior opulence and respectability need be assigned or sought for.—But, should it be asked does a delicacy so decisive in its influence, arise from a *superior* sense of duty, or a greater degree of generosity in the individual of the one county than of the other. I am inclined to answer in the negative, (a) the time has been when the *tenants right* was respected in Ireland, and even at this day, tho' *generally* disregarded, it is sometimes invidious to meddle with it. In both countries, the individual is the creature of his situation; land, being almost the only thing that comes to market in Ireland, the temptation becomes too strong to be resisted by persons who have no resources in trade, that does not flourish; or in manufactures which can be scarcely said to exist. In England it is otherwise from a different order of things.

(a) That which was at first the *effect* of circumstance, may in time, become an honorable *principle* of self-denial.

SECTION XIX.

Having endeavoured to show that the rate of Rents may in Ireland be considered as materially connected with the subject of Tythes, to which I now return. The observations contained in the preceding sections will not I apprehend be deemed irrelevant or immaterial; and, as it is

even certain that the clamour against Tythes has increased progressively with the advance of Rents, it may be useful perhaps to enquire, *why the payment of Tythes* is considered as more invidious, and submitted to with more reluctance than that of *Rents;* and yet, Tythes, or the *composition* for them, may be considered as a species of Rent.

It is the observation of Sir William Blackstone that those tenures in which, before the abolition of the feudal system, the render, or services, were *uncertain*, were considered more inconvenient and unpleasant, tho' perhaps more *honorable*, than those where the services tho' *less* honorable, were reduced to a *certainty*. Thus the tenure by soccage, where the services were certain and invariable was uniformly preferred to the uncertain tho' more honorable tenure in chivalry. By an analogy, not very remote, Tythes, even where they are paid in *kind*, may be conceived to assimilate with a tenure by *uncertain* service, inasmuch as the amount tho' given in kind is every year different. But the resemblance becomes *complete* where Tythes are taken by composition.

To make this plainer—let any reader suppose himself the tenant to a farm, under a condition implied or expressed in a lease, that the landlord

might have the privilege every year *ad libitum* of *raising* the Rent, if paid in money; or of *exchanging* the render from a *numerical* sum in money to be a *portion* of the produce in *kind*, according to his fancy, his caprice or his wants; and he will then have an idea of *one* cause, for there are many, *why* the payment of Tythes in general, as applied to other countries, or, to speak with precision, the *composition* for them as respects Ireland, from *uncertainty* as to the *quantum*, and the want of some fixed standard to regulate it, has been uniformly more a source of complaint than any *rise* whatever, in the rate of Rents;—from the want of this standard, it follows that the prices demanded and paid as *composition* for Tythes and their different species, are perpetually at sea, varying with the disposition, the wants, and the situation, in point of locality of those who are entitled to receive them. From this also frequently occurs an inequality in the prices exacted as composition for Tythes of the same species in different, and even in the same districts and parishes (b) an inequality that cannot fail to create discontent. It is unnecessary to observe that in cases of a *fixed rent* this uncertainty can have no place.

SECTION XX.

The same subject continued.

As in England, Tythes are almost uniformly taken in *kind*, (at least before severance and setting out the tenth,) there is rarely any composition between the Tythe owner and the *farmer*; and as it is evident that the render in kind, must in all probability exceed in value any *composition* in money, it may seem somewhat extraordinary, that the pressure of Tythes in Ireland, where they are compounded for, should in reality be *more burthensome* than in England; yet, however paradoxical the assertion, of the fact itself (which results in some measure from that difference) there can be no doubt; for, in the first place, in England the render in kind being *certain* and *invariable* precludes all debate or altercation as to the *quantum*. On the other hand, where *composition* for Tythe prevails, a *new* bargain to be made every year furnishes a source of perpetual jangling both as to quantity and value—thus, from the fluctuating and variable nature of composition (if the observations in the preceding sections are well founded) Tythes in Ireland if not in reality more oppressive, are more apt to be considered so.—Secondly, the proprietors of Tythes in Ireland having of late

sought to *raise* the *composition* as nearly as possible to the full value of the tenth in kind, the farmers and gentlemen resident in the country, long accustomed to an *acreable* and more moderate composition are more than usually sensible of the burthen, and more ready to exclaim against it. An *instance* may serve to illustrate the difference between the former mode of Tything, and that which is of late sought to be introduced. Let us suppose an *acre* of wheat to produce *ten barrels* and wheat to rate at *thirty* shillings a barrel, the value of the whole will be *fifteen* pounds, for this (according to the former mode of composition) the farmer usually compounded at about the rate of *eight* shillings by the acre, apparently, and without reference to extrinsic circumstances, a very moderate sum. *Now* the owners of Tythes rejectin g acreable rates, seek to receive by *composition* a sum as nearly equal as he can to the tenth of the gross amount, and from the instance I have given, it is easy to see that the difference is momentous to all parties. As yet however they have not been able to arrive at the point desired; on the contrary I am persuaded, that upon an average of the kingdom in general, the intrinsic value of Tythes is not paid; but, at the same time it must be admitted, that in many places or districts, a sum nearly, or perhaps fully equal to the value of the tenth may be exacted; while in others the composition falls considerably below it.

Some proprietors are not averse to receiving the full value of the tenth with all the advantages of composition. Others, more moderate, might be found still willing to abide by an acreable rate, a difference which may be imputed to various circumstances, some of them before alluded to. It is to the advantage sought to be taken of the non residence of the Tythe owner, or his incapacity to enforce his claim that we are to look for the *origin* of Tythe farmers, a description of persons so generally unpopular; the *third*, and most material cause why the *payment* of, or *composition* for Tythe in Ireland, is more burthensome than the tender of the tenth in England I shall have occasion to mention in a succeeding section.

SECTION XXI.

The same subject continued.

In Ireland, on the refusal of the Proprietor to accept the sum offered by the *farmer*, for composition, the *law* permitting the latter to *set out* the Tythe in kind, upon giving due notice for the purpose; it might reasonably be expected, that *this* step once taken, there should be no further complaint; yet, on the contrary, hardly any proceeding is considered more oppressive, than the taking the Tythe in *kind*; tho' generally, if reference be had to the real value; and

not to former compositions, the necessity for it has been induced by the unreasonableness of the *farmer* himself. Thus, a practice, which, in England, precludes all dispute in Ireland becomes a signal of hostility on the part of the *farmer*; who is, at least in many instances, certain to have recourse to every mode and contrivance to delay and defraud the proprietor of Tythe of his legal right. In England, where the custom of giving Tythes in *kind* has I believe at all times prevailed they are *set out* with *fairness* and *precision*. In Ireland, where it has been usual to *compound*; and, setting out Tythes, occurs only in particular cases, the direct contrary takes place.

In fact, there can be little doubt that had *composition* never obtained in Ireland, had the tenth been uniformly set out, or, only compounded for *after* severance. Complaints of the oppression of Tythes would at this day be as little heard of in one country as the other (a) whence this difference in the mode of Tything in two countries under the same government has originated, may be a subject worth enquiring into; yet, I am not satisfied that the causes which I shall endeavour to assign for it will be deemed satisfactory; any theory on the subject can only be founded on probability.

(a) But then, Rents must be *lowered* in the same proportion Tythes in England may be said to come from the Rent of the landlord in Ireland, from the profits and industry of the tenant.

SECTION XXII.

Why Composition for Tythe has prevailed in Ireland.

For this I can find no more probable cause, than the *low* state of agriculture in early times in Ireland, and the *extensiveness* of parochial divisions rendering it difficult to collect Tythes in kind. In England, the *small* extent of parishes might at once have enabled, and required the incumbent to do that, which in Ireland, must have been inconvenient, and, in an uncivilized country sometimes impracticable; even if it were otherwise, where there was *little* tillage, the proprietors of Tythes might naturally prefer a moderate composition to the maintenance of men and horses, necessary for the taking of Tythes in kind, of which there was but a small quantity. At this day, and in a more advanced state of civilization to attempt to take Tythes in kind, or to furnish the attendance necessary for the purpose in extensive districts where the inhabitants might combine to harass the owner, would be arduous and generally unprofitable: nor can any person not practically conversant with this unpleasant kind of property be competent to judge of the difficulties that are thrown in the way of a Tythe-owner, particularly, if *non-resident*, who, having declined acceding to an unreasonable offer of compo-

sition, should attempt to take any considerable portion of his Tythes in kind. I *mention* or *repeat* some of those inconveniences to which proprietors of Tythes in Ireland are every day exposed in order to induce those who have not fully reflected on the subject, to *promote* by every means in their power, the *commutation* or *abolition* of a species of property, which however established by the laws and the constitution, and sanctioned by the usage of early times, has uniformly been considered (however unreasonably,) oppressive and unequal.

SECTION XXIII.

Of the imperfection of some of the Tythe-laws.

The *Imperfection* of the Tythe laws plainly proves that *laymen* have been the legislators, of which the following may serve as a specimen. By the *1st. of Geo.. 2. cap.* 12. it is provided that in cases where Tythes subtracted do not amount to *forty* shillings, (a) it may be lawful for the person to whom due, for *twenty* days after demand, to make his complaint in *writing* to two or more justices of the peace of the County, who are authorized and required to

(a) Primate Boulter with great difficulty obtained this act from the legislature. (Boulter's letters)

summon in writing under their hands and seals, giving four days notice to the person against whom the complaint shall be made.—And after appearance, or in default thereof, the summons being proved upon oath, they shall proceed to hear, and shall in writing under their hands and seals, adjudge the case, and give *such* compensation as they shall judge to be reasonable, with costs not exceeding ten shillings.—By section *5th.*—If any person shall neglect or delay by the space of *ten* days, after notice given to pay or satisfy any such sum of money as shall by two justices have been adjudged or assessed, the constable or churchwardens or one of them, by warrant under the hand and seal of one of the justices, may *distrain* the goods and chattles of the party; and, after distraining them *three* days, in case the sum so adjudged be not tendered or paid in the mean time, make public sale of the same.

Now, in any case, but that of *Tythes*, by serving process *six* days before the hearing, *at the sessions*, a decree and execution immediately after may be had for any sum under *ten* pounds. Again; by the 33*d.* of Henry VIII. persons refusing to pay Tythe *after sentence* of the ecclesiastical court, should upon certificate of the ecclesiastical judge, be *committed* to the next jail, to remain there till surety be found by recognizance to perform the decree. But by the 3d. of George III. cap. 25th. section 2d.

this provision, certainly too severe, is *repealed* and a very inadequate remedy substituted. By this act, *attachment* and *committal* is taken away, and the circuitous remedy by *monition* (and that only to the amount of *twenty* pounds; whilst the remedy by attachment and committal was *without* limitation) is given in its place. The reason assigned for repeal is somewhat *extraordinary*; "that it would be very *inconvenient* to the justices to *meet* to grant such warrants." If the inconvenience to the justices of

(b) The jurisdiction of the courts of equity in causes of subtraction of Tythe ought to be taken away. The costs, which in the ecclesiastical court, can be no more than one pound six shillings and eight pence for any sum recovered; may, in the court of exchequer, amount to *one* hundred pounds, when the Tythe subtracted may not be worth *forty* shillings. In fact, there can be no good reason for suffering this jurisdiction to remain longer, since the remedy by monition and process to the sessions, *formerly confined* to *twenty pounds* has, by a late act, (3d. George III.) been extended to any sum. All that is requisite is to exact that *all Tythes of every kind, customary and otherwise,* may, and shall be sued for in a *summary way* in the *ecclesiastical courts,* in the same manner that predial Tythes now are, *and no where else*; It ought not to be in the option of any person, to have recourse to a *more* when a *less* expensive jurisdiction can dispense equal justice.

I have been induced to write this note (which I hope may meet the eye of Dr. Duigenan, a competent judge in these matters; or some other of our legislators) in consequence of having known a farmer who had inadvertently drawn in some of his corn *without settling* for the Tythe, obliged to pay *more* than the value, from the apprehension of a suit in the *court of exchequer* with which he was threatened.

the peace in obliging them to meet in order to issue their warrants under the construction of the act of Henry VIII. was so great; how comes it that the justices *still remain subject* to a similar inconvenience of *meeting*, &c. by the act of the 1st. of George II. before cited and for the trifling object of *forty* shillings? *Certainly* if Tythes are still to remain, it would be fair that in all cases of Tythes *under forty shillings* recovery might be had at the *sessions before the assistant Barrister*, by serving process *six* days before the hearing, and decrees as in other cases—the more—as generally speaking the justices of the peace, *not being lawyers*, are *incompetent* and consequently averse to act in Tythe cases.

SECTION XXIV.

Those, who not adverting to the *real* causes, (as observed in some of the preceding sections) ascribe the poverty of the peasantry of Ireland, to the burthen of Tythes, seem to have hazarded an opinion with little reflection, which will clearly appear if we examine what classes of the community are liable to this imposition. There are, in the first place—farmers of every description; secondly, gentlemen who occupy their own estates; thirdly, graziers, whose lands are for the most part in pasture; lastly, the peasantry who have rarely more than *half a rood*

in a garden attached to their dwellings. Of all, whose case is so affectedly deplored by the adversaries of the Tythe system, those who constitute the *labouring* classes of the people, complain least, and in reality have least reason to complain;—for whoever knows any thing of the country must have observed that the small portions of land attached to houses of the peasantry are uniformly planted with *potatoes*, and it may be affirmed that in three fourths of Ireland, Tythe is *not* paid for potatoes.—Very few however of the labouring classes have *so much* as half a rood of ground attached to their cabin, as a potatoe garden.—If then, as has been stated in parliament, the composition for an acre of potatoes is only *eight*, whilst the real value, without allowing for a rise in the markets, at different seasons of the year, is *twenty-eight* shillings; the statement proves, if not the moderation of proprietors of Tythes, at least, that the grievance, individually to the *peasantry*, is scarcely any thing;—if it sometimes happens that a grazier, whose lease is near expiring, chooses, from a wish for sudden profit, to let a field of pasture land for potatoes; even in a case, where such a claim might appear particularly *reasonable*, in no part of Ireland so far as I can collect, except in the South, and there, only *partially*, is Tythe required for an article so necessary to the sustenance of the poor, and surely the payment of the sum of *eight* shil-

lings (a) divided probably amongst half a dozen, can hardly produce the *discontent* imputed to the peasantry of that province by the writers of these days, whenever they enter upon the subject of popular grievances;—*next*, with respect to gentlemen, who reside upon their own demesnes; and graziers, who employ the land in their possession, whether rented or otherwise, in pasture.—In the actual state of Ireland, there is *no* class whose residence in the country is of more general utility, than the first, to the labouring poor: Nor any, of so little, as the second.—The *resident* gentleman usually devotes a considerable portion of his demesne to *agriculture*; and, more useful to the labourer, than even the farmer, (who, after harvest is collected, employs but few workmen in the winter season) finds pleasure in making those improvements which afford so much gratification to the rational and cultivated mind; while, on the contrary that class, whose lands are devoted to *grazing*, conduct their business by means of a few shepherds or herdsmen; and give little comparative employ-

(a) The demand of *eight* shillings for the Tythe of an acre of potatoes must be admitted to be very moderate, but as it may at any time be *raised* at the option of the Tythe-owner who may even insist upon receiving it in kind, the *uncertainty* is itself a serious inconvenience.—If nothing more could be done, it would be useful to fix a maximum *or modus* for the Tythe of *potatoes* and *flax* by act of parliament. Suppose at *eight* or *ten* shillings an acre. It ought also to be remembered that although Tythes *for Potatoes* are not *now* paid in the greater part of Ireland, yet they are not legally *exempted*.

ment to the laborious peasantry at *any* season of the year;—yet they unite with others in commiserating the state of the *poorer* classes under what, they term, the oppression of the Tythe system. (a) It is idle to say that the complaints against Tythes are confined to the lower ranks of the people; whoever has had experience on the subject, must be convinced that *country gentlemen*, and *rich farmers* are as averse to the payment of Tythes, as any other description of the community.—In the desire for the *abolition* of Tythes, the several classes affected by the payment of them may be considered as *unanimous*.—But the wish for a *commutation* is not perhaps so general.

The farmer, so long as he expects, but no longer, that an *acreable* assessment will not be so heavy as that uncertain sum which he now pays, naturally wishes for *any* alteration that may give hope of paying less;—on the other hand, graziers and proprietors of pasture lands, who have but little tillage, might be averse to having their lands charged with any sum that should *exceed*, in the way of commutation, the amount of what they pay at present. Gentlemen of a middle class, who reside in the country, and, who, to support their establishments, must have a certain portion of their demesne devoted to tillage, (equally with the farmer of

(a) I believe it is somewhere in Homer that the captives under the appearance of sympathy are described as lamenting their *own* misfortunes.

inferior description,) consider Tythes as burthensome upon their industry, and are anxious for any change of system.

It seems indeed to be in *this* class particularly where the operation of the present Tythe system is found to discourage agriculture, for there is no country gentleman that would not, were the claim of Tythe *abolished* or *commuted* convert a much larger portion of his land to tillage. The occupiers of small divisions of land who are very numerous in Ireland can be only affected by the payment of Tythes as it diminishes their *capital*, but, as this description of persons must of necessity employ their lands in *tillage* the agriculture of the country so far is not sensibly diminished by it. In short, as to the *general* sense of the inconvenience of Tythes such as I have described then there can be no doubt. The great difficulty will be to apply such remedy as may be appropriate to the wishes and the interests not of *one* but of *all* the different classes of the community interested in or affected by the present Tythe system.

(c) Since writing of the preceding section I have been informed that a *species* of composition for Tythes sometimes takes place in England—" So much an acre for *all* land in the parish arable and pasture"—but this runs so *high* as to be equal to nearly the full value of the tenth of all products liable to tythe. In one parish it amounts to four *shillings and nine pence* an acre, in others to *five* and *six* shillings; a composition or commutation of this kind would hardly be thought desirable.

SECTION XXV.

In England where Tythes are *generally* taken in kind it may be fair to conclude that whoever takes a lease of land, well apprized that he must pay the *tenth* without any abatement, calculates upon it as a thing *certain* and *indispensable* and *proportions his rent* accordingly, deducting for that portion of the produce with which or something nearly equivalent he is certain to part.— (a) on the contrary in Ireland, (where the *tenth* is

(a) Perhaps there are no persons who ought more to be relieved from the pressure of Tythes than landlords themselves, and gentlemen who reside in the country; without adverting to what is evident that they sustain the principal burthens of the state, it may be truly said that they are at much more expence in agriculture than farmers of an inferior class. The *gentleman* farmer is a useful character but seldom grows rich by the profession. His speculations resemble the exertions of the *first discoverer of a mine,* more useful to those who come after.

But his residence in the country is of so much *utility* in every point of view particularly in affording employment to the peasantry that every inducement should be held out to make him continue there. It is in this point of view that *taxes* upon horses, dogs, and upon servants, may be considered as peculiarly injudicious.

Mr. Cobbett the severe censor of the politics of the times informs us that he has conversed with a number of farmers since the *abolition* of Tythes in France who concurred in *saying,* that they now pay *double* in rent what they formerly paid for *tythes* under the old system; the information is deserving of attention. But is it not probable that this rise in rent may spring

usually *compounded* for before severance, where the amount of the *composition* itself is *uncertain*, depending much upon the *temper* the situation and even upon the *adroitness* of the parties in bargain making. The farmer rarely or at least *inadequately* computes upon the value of the Tythe or measures his proposition of rent by a due or indeed any determined reference to it. Besides, as in a country where there is no *Tythe agistment* a tenant may almost altogether by converting his tillage lands to *pasture* avoid the payment of Tythes. He is less apt to include in his consideration a deduction the amount of which may be regulated in some measure by his own choice, yet *it is principally in consequence of an omission so material* that Tythes though apparently the reverse, are more peculiarly burthensome in Ireland. I am aware, that one of the strongest or at least most plausible objection to any change in the present system is, that if Tythes were *abolished* landlords would raise their rents in full proportion, and consequently that THEY and not the tenants would

from other circumstances (which common farmers could not discriminate) than the abolition of Tythes. At any rate I apprehend that predial Tythes which form the principal were taken in kind in France. Yet I perfectly agree "that it would be a *destructive* alteration that should deprive the clergy of their glebes". On the contrary where these are wanting they ought to be procured at any price, in order, amongst other purposes, to ensure the residence of the clergy in their parishes, not only as clergymen but as *gentlemen* in a country which suffers so much from the absence of the proprietors of the soil.

profit by the *abolition*. But if the force of this objection with respect to a country where Tythes are taken in *kind* be admitted, it seems inapplicable to Ireland where *composition* prevails; where every thing that relates to Tythes from the circumstances I have stated is *uncertain*,— and where *uncertainty* is productive of discord and dissatisfaction. Were it even possible to avoid that uncertainty which must of necessity arise from the nature of *an annual composition* and that the Rents of lands, could be raised in full proportion to the desired exemption from Tythes, *still* the country would be a gainer. I would be a gainer in point of harmony, amongst some, and of tranquility amongst all classes of the community. Like those *imposts* which being *blended with the price*, are most eligible and least noticed; any additional sum paid for Tythe would be confounded with the *Rent*, and the name itself so unpopular would in no long space of time be forgotten.

SECTION XXVI.

So long since as the year 1728, we find from the letters of primate Boulter, that a clamour similar to that which now obtains against Tythes, was very prevalent (a). It has indeed been uni-

(a) " I need not mention (says the Primate writing to the Bishop of London) that if the landlord takes too great a portion of the profits of a farm for *his* share by way of *Rent*, the

formly the fashion, to impute the distressed state of the peasantry of Ireland to the exorbitant exactions of the clergy, and proprietors of Tythes. It should seem however, that the imputation was THEN equally unfounded as it is at present (b). In fact, as before shown, the peasantry of Ireland, strictly termed, are *not* the persons aggrieved by the payment of Tythes. But the observation or the charge alledged by that judicious statesman against the landlords of his day, "that they generally took *three-fourths* of the profits of the farm for Rent," applies to those of the present times with accumulated force. Yet, the distress of the tenant, where it does exist, is more *colorably* ascribed to the pressure of Tythe than to the pressure of the Rent, because the payment of Tythe is almost uniformly *subsequent* to the payment of the Rent.

Tythe must light upon the *Tenants* share. But then, it is not the *Tythe* but the *Rent* that undoes the farmer, and indeed in Ireland, where I fear the tenant hardly ever has more than one third of the profits he makes of his farm, for his share; and too often but a *fourth*, or perhaps a *fifth* part, as the Tenants share is charged with the Tythe, his case is no doubt hard, but is plain from what side the hardships arises."

Boulter's State Letters, p. 233.

(b) I would not be thought to deny that the proprietors of Tythes are in many instances unreasonable in their demands, as referred to the *former* and usual *composition*, but not in general as compared to the *real* value; and I also think these demands are every day advancing in magnitude, in consequence of the increased exigences of the proprietors themselves.

Precisely from the causes detailed in the preceding sections, *Rents* are (if I may so say) *artificially* raised to a standard regulated more by the *number* of *bidders* than by the *fair value of the produce of the land*, or the convenience of bringing it to market; and the peculiar circumstances of the country, minister sometimes to the avarice, but more frequently to the necessities of the landlords, of whom the most indulgent are found to be those whose expences are bounded by their incomes, as the most oppressive; generally speaking, persons whose extravagance, like a river which overflowing its banks, lays waste the country it ought to adorn and fertilize.

Shall we say that landlords are to *blame* for setting their land to the highest bidder? Is a merchant *culpable* for selling at the best price of the market? The question is somewhat delicate; and the cases I am aware, are not strictly parallel: but while we give due praise to those who shewing a preference to the antient tenants of the soil, do not set their lands up to *auction*, we must in some measure attribute the *success* of the contrary practice to circumstances which by a simple deduction appear to result from the peculiar state of a country labouring under a a want of trade, of arts, and of manufactures, to relieve or occupy an overflowing population.

SECTION XXVII.

Mr. Parnell in a speech delivered lately in the house of commons, has given, I believe, an accurate account of the general state of Tythes in Ireland. This account I shall take the liberty of transcribing:

" I believe," says Mr. Parnell, " The clergy " do not levy any thing like one *tenth* of the " produce of the land. There are no *small* " Tythes in Ireland, a *modus* having been es- " tablished against them. There are *no Tythes* " *on cattle.* For neither *potatoes* nor *flax* in " the *north* of Ireland are Tythes paid. The " Tythe on hay in Connaught is *sixpence* only " upon any quantity, and throughout the coun- " try in general the following statement will be " found to apply: an *acre* of *wheat* producing " an average crop of eight barrels, at an aver- " age price of thirty shillings, would give a " Tythe of one tenth of the produce to twenty- " four shillings, whereas the usual rate charged " is twelve shillings; an *acre* of *barley* produc- " ing an average crop of thirteen barrels, at " an average price of thirteen shillings, would " give a Tythe of nineteen shillings and six- " pence, whereas the usual rate charged is nine " shillings and eight shillings. An acre of *oats* " producing an average crop of twelve barrels,

" at an average price of fourteen shillings, " would give a Tythe of sixteen shillings, " whereas the usual charge is seven. An acre " of *meadow* producing an average crop of " two ton and an half, at an average price of " fifty shillings, would give a Tythe of twelve " and sixpence, whereas the usual rate is six " shillings. An acre of *potatoes* producing an " average crop of seventy barrels, at an aver- " age price of four shillings, would give a " Tythe of twenty-three shillings, whereas the " usual charge is *eight* shillings."

The inference Mr. Parnell draws from these premises very fairly is; " that no blame attaches to the clergy, as a *body*, for exorbitant exaction of Tythes." To *analyse* this statement, " there are in Ireland, no *small* Tythes, a *modus* having been established (says Mr. Parnell) against them."

As *vicarial* Tythes, which are generally accounted *small* Tythes, *are* paid in Ireland, I am at a loss to understand what is here intended by "*small Tythes*;"—and therefore cannot enter more minutely into that particular.—" There are no Tythes on cattle;"—by this, I suppose is meant horned or black cattle, as Tythes for sheep are uniformly paid,—" in the north of Ireland, Tythe is neither paid for potatoes nor flax,"—true, it may not *now* be paid, but is *still due* upon general principles. For, in

this case there can be no such thing as *a modus de non decimando*.—" The Tythe of *hay* in Connaught is *sixpence* only for any quantity.—However true, in point of fact, in this instance the practice or exemption grounded upon an *absurdity* so glaring, could never have been supported upon legal, or indeed any principles.

Every *modus*, as it is called, rests upon the presumption of a *former* reasonable composition actually made, but the law, which is founded upon *common sense* could never intend any thing so repugnant to it, as that at any period of time, however remote, *sixpence* could have been considered an adequate compensation for the tenth of *five*, or of *five hundred* acres of meadow. Until Mr. Parnell brought forward the subject, it was not understood that this usage, of *sixpence* for *all* hay, obtained even practically, in Connaught; and perhaps it never has been brought to a legal test in that uncultivated province.

But let us hear the *bishop of Cloyne*, upon a *claim* of similar exemption in the province of Ulster.—" The minister of a parish in the dio-
" cese of Clogher sued for the Tythes of hay
" subtracted. A *modus* was pleaded, and of
" course a *prohibition* to the spiritual court."

The point came to trial at the assizes of Monaghan; "the clergyman proved by the oaths "of O. A. esq. a member of parliament and "R. M. esq. (each of whom had a large quan- "tity of hay in the parish) that they had uni- "formly paid Tythes of hay in kind, and that "the same had always been paid in their memo- "ry, this testimony was corroborated by seve- "ral respectable witnesses."—"The witnesses "produced on the other side, were *vagrant beg- "gars* who had no settled habitation, and who "swore that they never knew any thing paid, "but sixpence, hay; and sixpence, flax; and "upon their testimony, a verdict was found "against the clergyman. Lord chief justice "Singleton, who tried the cause, astonished at "the verdict, recommended to the jury to re- "consider it, which they refused; and the chief "justice was so sensible of the infamy of it, "that he refused to certify it to the court, from "which the writ issued: But, another judge, "on a second trial and with the *same evidence*; "certified the verdict." "The neighbouring "clergy (continues the Bishop) intimidated by "this decision gave up the Tythe of flax, as "well as hay, tho' that of flax was not in ques- "tion." Supposing this account to be correct, it is indeed surprising that a verdict so repugnant to justice and common sense should not have been set aside for mis-direction or non direction of the judge? Could there not have

been a special verdict, or was there no method of bringing the question of good or bad modus (being a question as I take it of law) before the superior courts? for altho' it is clearly within the province of the *jury* to find a particular usage or custom; yet whether that usage be good or not, as a *modus*, seems as evidently to belong to another tribunal. I cannot pursue the subject farther not having seen the pleadings in the cause, (a) but, it should seem that the Tythes in question were at that day *lost* merely by the injudicious management of the cause by those who claimed them.

Mr. Parnell, in the statement I have taken the liberty of commenting upon, (the most correct that has appeared as to the present state of Tythes in Ireland) must be presumed to intend an *average* rate; for unquestionably, in some parts of Ireland, *seventeen*, and frequently *twenty shillings* an acre, for the Tythe of wheat, is demanded, and so for the rest in proportion. If this be the case, whatever may be the average, as to the kingdom at large, if a farmer is obliged

(a) On shewing cause against the issuing of the writ, *if it* should appear that the modus set up was *absurd* and repugnant to *common sense* I apprehend that no *prohibition* would be directed to the spiritual court.

From the account given by the Bishop of Cloyne, it is not perfectly clear whether the remarkable care of a *modus* above mentioned was decided upon an issue from a court of Equity or by pleadings in prohibition.

to pay twenty shillings for that which in a neighbouring parish is rated at eight and ten shillings, this inequality may produce additional dissatisfaction. But, in fact, the prices of Tythes are every day *advancing* throughout the kingdom; for, as was before mentioned, the mode of rating by the *acre* so long as it was observed, which in some degree enabled the farmer pretty nearly to ascertain the claim that would be made for Tythe) being abandoned; and the practice of estimating in the *gross*, wherever it is in the power of the owner to enforce it, having been substituted, the difference induced by the change is become of serious moment; and without detracting from the character of the clergy, as proprietors of Tythes, it is certain that they are well disposed to take the highest value for their Tythes, whenever they can obtain it.—A disposition, which it would be unfair to ascribe to them as a fault, when it is considered that holding by so *uncertain* a tenure as that of life, they ought to endeavour to make provision for their families, otherwise without support, in so many instances. It may also be observed, that so long as an income of *five* hundred pounds a year, was sufficient to the maintenance of his family; a clergyman, whose parish was worth considerably more, might be contented to receive by an easy composition, the smaller sum.—But if, while I write, an income of a *thousand* a year, is not adequate to one of *five* hundred, at the commencement of the present war, or *will* not afford to

the proprietor, the command of an *equal* quantity of necessaries and conveniencies of life, which is indisputably the case (b) it would be unjust to censure the proprietor of Tythes for that which is the INEVITABLE consequence of his situation, if indeed those who pay Tythe might be considered in the light of *tenants*, (an opinion to which I myself incline,) there might be some colour for saying, that a reasonable profit should be allowed to the tenant. I shall not pursue the analogy: But it is undoubtedly true, that altho' the proprietors of Tythes do not receive upon an average, according to Mr. Parnell's statement, any thing like the full value of the tenth, they are in general *no* more entitled to praise of moderation, upon that account than the landlords of the present day are deserving of approbation, when they happen not to get the *utmost* value for their land, at the same time that they advertise to let to the *highest* bidder, promise no *preference* and take the very *highest* rent they can get.

(b) In the article of *wine* for instance,—immoderate taxation and high insurance, the consequence of war have placed *beyond* the compass of the middle ranks of life, (who in the last *ten* years have experienced in this particular a most complete revolution in their domestic œconomy) every thing genuine of that kind.—In the language of finance, this is what is called imposing taxes upon *Luxuries*, yet it might have occurred to a statesman, of a reasoning head and philosophic mind, that the *line* between what are termed the *luxuries* and the *necessaries* of life is not easily discernable, that what may with some propriety, be esteemed a *luxury* in a certain rank and given climate may (mutatis mutandis) or, in a

SECTION XXVIII.

Of the Influence of Tythes upon Agriculture.

Tythes so evidently operate as a *bounty* on *grazing* to the prejudice of agriculture that it is unnecessary to enlarge upon that subject. *Cato* the *elder* being asked the *best* mode of improving a fortune,—replied—"to *feed* well"—what the second?—"to *feed* well enough"—what the third?—"to *feed* badly"—what the fourth?—"to plough"—(a) placing agriculture below even

change of circumstances, be justly accounted a *necessary* and that to contract the sphere of human enjoyment, might not be the best mode of advancing human happiness.

I confess I have written the above note with *peculiar spleen* to the chancellor of the Exchequer, being well informed that besides almost annihilating the trade of a wine-merchant, The Revenue has been considerably injured by the heavy impositions upon wine, Which in our Northern climates is amongst the necessaries of life to those in a certain rank;—so much so, that Mr. Grosley in his admirable observations upon England, imputes the disposition to melancholy, and even *suicide*, there so prevalent amongst other physical causes to the dearness and scarcity of *unadulterated wine*.

Obs. upon Eng. vol. p. 182.

(a) A quo cum quæreretur, quid maxime in re familiare expediret? respondit; *bene* pascere; quid secundum? *satis bene* pascere, quid tertium *mali* pascere, quid *quartum?* arare. Et cum ille qui quæsierat dixisset, quid *fœnerari?* Tum Cato quid hominem, inquit *occidere?* Cic. de offic. L. b. 2.

It is curious in these times to read the opinion of Roman republicans on the subject of lending money at *interest*.

indifferent grazing. The experience of the present times may perhaps confirm the opinion of this sage Roman, although the profits upon grazing in Ireland seem of late on the *decline* either in consequence of the poverty of the manufactures no longer able to purchase animal food in the same proportion as formerly, or, from the absence of the higher ranks who have been translated to England in consequence of the act of union—*or possibly* because provisions for the fleet and army may be procured at a cheaper rate from other countries.

SECTION XXIX.

When Mr. Parnell states that the practice of taking Tythes in *kind* in Ireland is *now* seldom heard of, he is perfectly correct. But when the apprehensions entertained by the farmers of the rigour of the Tythe laws are assigned as a cause why they are *not* so taken it should seem that he has not been equally well informed. It is true, that by a clause of an act of parliament (29 George 3rd.) *combination* and *confederacy* to *defraud* any clergyman or lay impropriator of the church of Ireland of Tythes is made a misdemeanor punishable by fine and imprisonment. But this necessary provision by no means prevents the farmer from giving notice to set out his Tythe. The act speaks of *combination* without interfering with the legal right of

the farmer which he before possessed, the truth is, there is nothing in the whole Tythe system the farmers hear of with more dislike than giving the *tenth* of their corn; and whoever is acquainted with Tythes experimentally will find that many of the lower class of farmers when they have given NOTICE to the proprietors to take Tythe in *kind* use every means to harrass and defraud them. From whatever cause, it certainly has never been the *custom* in Ireland to pay Tythes in *kind* (before I read Mr. Parnell's speech I had endeavoured to account for it) and, far from wishing to introduce the practice, the farmers, long used to a moderate *composition* would undoubtly consider it as the greatest calamity that could befall them, while on the other hand the proprietors of Tythes might naturally desire a change, which would, generally speaking if practicable double their Income.

It must however be admitted that in many parts of the kingdom the difference between the *usual* composition and the real value, is much greater than in others. In some it may be as *three* to *four* the true value of the tenth, while in others it is so low as *one* to *four*. This arises from the difference in the capability of the proprietors to enforce their rights. For allowing the clergy to profess as much moderation as the rest of the community, and admitting that many of them, lovers of tranquillity may sometimes hesitate to enforce their claim to its fullest

extent. Their omitting or declining in general to do so, is rather to be ascribed to a sense of the difficulties and unpopularity attending the effort of contending with the prejudices and self-interest of a whole district or province than any philosophic reluctance, to receive a *larger* in place of a smaller revenue. It must also be conceded that from the infinite *subdivision* of land in many parts of Ireland, more *poor* people, that is, *poor farmers*, are subject to the payment of Tythes than in England, or perhaps any other country; who can less afford to pay them, than persons in more affluent circumstances; but this *inability* arises more from the *highest rent*, they are obliged to pay for those small farms, than from the payment of Tythes.

And altho' Mr. Parnell, according to the account given in the public prints, seems to think that Tythes have been a *favourite* with the legislature, yet, an examination of those laws referred to in a preceding section, might incline him to entertain a different opinion. But their very defects and insufficiency, furnish an *additional* motive for a change in the present system.

SECTION XXX.

Whoever has read the ingenious treatise of the bishop of Cloyne, in which will be found every argument that can be adduced in sup-

port of Tythes, may regret that the author should have *confined* the exercise of superior talents, to an humble and domestic subject.—In this production, the writer, considering the present Tythe system as inseparably connected with the existence of the *Protestant* establishment, grounds one of his strongest arguments, against a *commutation*, upon the idea of a *probable increase* of Protestants, making a *dissolution* of the present *union* of parishes, a necessary measure at a future day; in which case, a stipend according to a certain valuation *now* taken might, when *divided*, become insufficient for the support of the several incumbents. But, had this learned prelate lived to these times, there is reason to think he would have altered his opinion.

Since the establishment of the *college* and *seminary* at Maynooth, he must be indeed a visionary who could hope hereafter for a proselyte to the church of England from the church of Rome. So that all arguments from so chimerical a source being relinquished, it seems unnecessary to demonstrate, how *immaterial* it must be to the ministers of the reformed religion, provided they are *liberally* supported, whether the provision allocated to their use is made to arise from Tythes, or any other demonstration of property, when the *law* shall have given its sanction. There is nothing so peculiarly gratifying to the feelings in the receipt of

Tythes, so reluctantly and so unequally paid, that can induce a sober and reasoning mind to hesitate upon the alternative. But, to the argument, "that Tythes, *varying* with the times, "as a render, or in nature of a render in kind, (I put it in the strongest light, for the render in *kind* in this country has never been established, which makes a considerable difference) "would at *all* times afford a more adequate "provision than any *fixed* and *stipulated* sum "however liberal derived from any other source "and sure to be affected by the *fluctuations* in "the value of money, and in the price of ar-"ticles of consumption." This answer may be given; which, combined with facility, stability, and convenience in the mode of payment, seems to be satisfactory. In the first place, altho' the clergy seem impressed with the opinion that the *value* of Tythes in their respective parishes, will continue to *increase* far beyond their present amount; there is on the other hand, strong reason to think that the average value, however it may be in particular instances, or districts of the kingdom, is equally liable to *diminish* by the substitution of grazing for tillage; to which, nothing is more likely to conduce than the *raising* the rate of *Tythes* (a)

(a) Proprietors of Tythes ought never to forget that Tythes and Rents resemble *quotient* and *divisor* in numbers. The *higher* the *Rent* paid by the farmer, the *less* he can pay for *Tythes*.

except that of *Rents*, now arrived to a standard so immoderate, that there may be cause to apprehend, from the *bankruptcy* of the farmers, that the agricultural will in its turn be superceded by the grazing system.

The income of the clergyman *diminished* a *third*, by the converting of one or two considerable farms in his parish, from tillage to pasture, is a very frequent occurrence in Ireland. In general, the present high rate of Rents may be considered as *artificial*, and not likely to be permanent.

SECTION XXX.

Exclusive of the considerations in the preceding section, it is unreasonable to suppose, in the event of the provision assigned in exchange for Tythes, becoming in process of time, from any of the circumstances alluded to, *inadequate;* that the legislature, which provides for *other* emergencies, which has so lately increased the stipend of the *inferior* clergy as it has done that of the *military*, would refuse to extend a similar liberality to the ministers of the religion of the state, and which it every day affords to those of a different persuasion; and here, lest it should escape me, I may be permitted to observe; that as a clergyman can be said to have no more than a *freehold*

for life, and not the *inheritance* of his rectory or parish, it is difficult to conceive that there can be any injustice in obliging him to receive compensation in exchange for his present revenue. Even upon the presumption that the *present* possessor should hesitate to embrace the proposed alternative. The legislative provision might be made to take place in the time of the *next* incumbent, who surely could have no reason to complain as to the amount (always supposed liberal) of a *succession* to which he had no *hereditary claim.* For, as has been truly observed, *Tythes* are, as to the clergy, merely *wages,* and not, strictly speaking, a property. (a) The case of the *lay impropriator,* who has the *inheritance,* is, in this particular, wholly different, and, with respect to him, the arrangement to be proposed, must obviously be of a very different nature.

(a) Bishop of Cloyne's Treatise.

SECTION XXXI.

However well inclined the clergy and impropriators might perhaps be to *exchange* Tythes for a *fair* equivalent in the way of commutation, the great question would be to determine from what fund this equivalent should be taken. It

is indeed from the difficulty, which it must be ingeniously confessed, arises from this point, and which has been so clearly suggested by the the bishop of Cloyne, that I have been induced to think the *abolition* of Tythes, substituting a provision for the clergy unconnected with the *land* itself, as *more* eligible than a commutation by an *acreable* cess. Were a commutation upon *this* principle to be adopted in Ireland, upon a calculation of the *real* value of the tenth without a reference to the sum *actually* received in each year by the incumbent, it would, in most instances introduce a remedy worse than the disease itself (a). For, however assiduous the proprietors of Tythes may have been within a few years in the improvement of that species of property, it is not to be understood that they have in general arrived at the *full* value of the tenth in kind, tho' they are certainly making rapid advances (unless their progress be arrested)

(a) I have lately heard of a parish in England which contains fifteen hundred acres arable and pasture. The parishioners pay *four* shillings and nine pence an acre upon the *whole*. In others adjoining, the rate is *five* and *six* shillings an acre. This may seem to contradict what has been before advanced, "that *composition* for Tythes does not obtain in England." But besides that the composition here described differs from a composition for *corn* and *meadow* lands exclusively the *amount* seems to prove that Tythes must have been at some short preceding period, taken in *kind* in the parishes here alluded to. Be that as it may—a composition at these rates would not be very grateful to the farmers and country gentlemen of Ireland.

towards that, to them, desirable point. A consideration which ought to accelerate the notions of government, if *any* change should be in contemplation. (b) It has been confidently asserted that the taking Tythes in *kind* for the space of *ten* years, would from the present rate of Rents make a *bankrupt* of the Irish farmer; but, without enquiring how far the assertion is, or is not, well founded, it may be true that the *difference* between the *real* value of the tenth and the *composition* the farmer can make for it, constitutes his *principal* support.—It is this difference, which the raising the *composition* tends to annihilate by diminishing those profits, of which, from the peculiar situation of the country, so *small* a proportion is allowed to remain to the tenant or cultivator of the land. Even as things stand at present, those,

(b) All along the question, as to the *commutation* or *abolition* of Tythes in Ireland is to be considered in a very *different* point of view and with a latitude not applicable to England where taking Tythes in *kind* or of an *adequate* composition has been long established. Yet the present chancellor of the exchequer (Mr. Perceval) seems persuaded that the situation of both countries is in this respect so *similar* that no alteration in the Tythe system ought to take place in the one if not *equally* practicable and necessary in the other.—The *distinction* is that in *England*, Tythes must be considered as a *property* certain and determined, and in exchange for which nothing less than the *full* value of the tenth, would be accepted in the way of commutation.—In Ireland,—Tythes may be regarded rather as an unliquidated *claim*, for which an advantageous bargain for the public, might even now be made, than an equally valuable and determinate possession.

who are advocates for commutation by an acreable assessment, which would certainly remove *some* of the inconveniencies now complained of have not perhaps reflected upon, what scale that commutation must be made as no *average* rate could obtain in this case.

In some districts and parishes *two* shillings an acre on *all* lands arable and pasture, might at this day be sufficient to recompense the possessor of Tythes, whilst in others, *four* would be found inadequate, which last would hardly be considered a *desirable* exchange. It seems that no measure of this kind, which should impose upon all land affected by Tythe, more than *one shilling* an acre, would be grateful to the different interests, agriculture and grazing. But might not the deficiency be supplied to the proprietor of Tythes, from the National treasury if no rational argument can be adduced to the contrary? And if the *name* of *Tythe* must still be retained, a system thus *compounded* seems the most eligible species of commutation.

SECTION XXXII.

That celebrated but unsuccessful statesman, Mr. Pitt, is said to have expressed an opinion in the British house of commons, "that Tythes in *England* could hardly be considered as an

inconvenience," an opinion which could have been well founded only upon the principles before mentioned, " that in *that* country *Rents* are *proportioned* with a reference to the certain deduction of the tenth in kind." For, if it be admitted that the English farmer finds no inconvenience from paying the tenth of his crop in *kind* or by *composition* to the full computed value, it may be fairly inferred, that he holds by moderate Rents. If also, the Irish farmer who *compounds* for his Tythes for *less* than the value of the *tenth* complains of the severe pressure of Tythes, it may be natural to conclude if it cannot otherwise be accounted for, that the Rents he pays are proportionably *higher* than those of the English farmer. But there are many who consider the abolition or commutation of Tythes as tending *only* to the emolument of the farmer or landlord, at the expence of the clergy and proprietors of Tythes; an opinion I have endeavoured to combat in the extent in which it has been maintained. Yet, if it were even granted that the *Rents* of the landlords or profits of the farmer might increase by the introduction of a new system on the abolition of the old one. Could *that* justly be considered a *serious* inconvenience which should procure to the clergy an equally liberal and less fluctuating provision, and to the impropriator an adequate compensation for his property.

Any argument founded upon a jealousy so absurd, would ill deserve the attention of the legislature or the government. The state is supported by the contributions of the landlords and of the farmers. And whatever might be their profits, it would be difficult so to conceal them as to escape the ingenuity of the financiers of the present times,—that ingenuity of taxation before which the industrious and energetic principle, which a celebrated writer upon the wealth of nations, represents as the only thing that has hitherto, enabled the people to struggle without sinking under accumulated burthens, may finally give way (b).

(c) Hitherto I have reasoned from the consideration of circumstances a *priori* as to the comparative rate of Rents, in England and Ireland; but I have since, from well founded information ascertained the truth of my own theory.

At this moment, lands in England, let from twenty-five to thirty shillings an acre, while lands similarly circumstanced, let in Ireland from *three pounds* to three guineas.

(b) "The principle which seems *innate* in man, of labouring to better his situation."

Smith's Wealth of Nations.

From *this* book our modern statesmen derive *all* their knowledge of practical finance.—From this fountain—Mr. Pitt took his idea of assimilating the customs and the excise, in the mode of collection, and of laying on the tax at a particular stage;—perhaps it is not generally known that *rewards* are bestowed upon the inventor, or proposer of a tax, that promises to be productive.—The person who suggested that upon hats, which has fairly enough been called a *capitation* tax, is reported to

SECTION XXXIII.

The difficulties which seem likely to attend the carrying *such* a commutation into effect, as would reconcile the contending interests tho' by no means insurmountable, are yet of a nature so important; that it seems probable as before observed, that an *abolition* of Tythes might be more easily effected.

The commutation usually sought for, proposes that an account should be taken of the *composition now* paid for Tythe in each parish, through the kingdom, and that an *acreable* assessment to that amount should be imposed upon the land, to be collected like the *county cess* with liberty of *distress*, in case of non-payment, and, to render it effectual, with a preference to the landlords rent.

If we could suppose the obstacles in the way of arriving at an adequate knowledge of the present composition for Tythes, in the different

have received a considerable reward. A tax upon *boots* of *all descriptions* might be recommended as likely to be productive, and certainly not easily evaded. Such a one would undoubtedly be preferable to any *new* edition of the window tax.

(c) Whatever may be said to the contrary, merchants and shopkeepers are in *general* greater gainers in times of war than of peace. It would be easy to demonstrate that these classes virtually pay *no* taxes these being always ultimately paid by the consumer of those articles in which they deal.—Like *spunges* persons in trade *absorb* from the land holders and country

parts of the kingdom removed, the matter might be speedily settled, were it not that in some places this composition, has been of late raised so high, that an *equal* commutation would amount to a rate formidable, and objectionable to all proprietors of lands, occupied in grazing and pasture; the more, as the exemption from Tythe *agistment* is now become legal. Besides, were it even to be admitted that particular complaints or local inconvenience, ought not to be attended to in matters of national concern, and that it might be fairly argued that lands now in pasture, may at the election of the party be hereafter converted to tillage, still the magni-

gentlemen, that wealth, which is afterwards advanced to government in the shape of loans, of which the *interest* is again paid by the land. But they themselves are never *squeezed* till they become proprietors of land in their turn. It is to the superior ability of advancing money to the state, that the influence of the mercantile body is to be imputed, and to the facility with which money is procured, that wars have heretofore been so readily undertaken and so long protracted. Merchants and shopkeepers can fix their own prices; *war* affords a latitude for raising them an opportunity of speculation. On the contrary, those employed in agricultural pursuits are if so inclined too numerous to combine, and the *nature* of their stock does nor admit it ——— *pius* questus, *stabilissimus,* minimque, invidiosit aut male cogitantes sunt qui in eo studio. sunt occupati ———According to these ideas for which I am principally indebted to the author of the wealth of nations.—It may happen that some descriptions may flourish in consequence of a state of things, by which others of the community are depressed—The intelligent reader will perceive *(Reddendo singula singulis)* that the observations in the preceding note do

tude of a tax of this nature would be such, that it would inevitably be considered as *Tythe*, the very name of which ought, to all intents and purposes be consigned to oblivion. Yet it must be confessed, that from *any* species of commutation once *established*, the following consequences would result: First, the farmer would at one view perceive the extent of his engagements, knowing that so much must indispensably be paid for Tythe, he might calculate his Rent inclusively, and of course have some allowance from the landlord for that charge, which at present he has *not*. Secondly, the amount remaining *invariable*. Improvements in agriculture would not be subject to any encreased imposition contrary to what takes place under the present system; where the greater the improvements or cultivation, the higher the demand for Tythes. Thirdly, all room for litigation for Tythes in the ecclesiastical or equity courts would be removed. (a)

not apply to an *income* tax; nor, to such a system as that adopted by Buonaparte, in the *exclusion* of British manufactures from the continent; but, merely, to the trade of *home* consumption, the most beneficial of all, to the merchant.

(a) A system of partial commutation might perhaps be usefully introduced, by enacting, that in future, Tythe upon wheat, oats, and hay &c. should not exceed a certain sum by the acre. Suppose twelve shillings for wheat; eight shillings for oats; five shillings for hay; and so in proportion for the rest; *leaving to the proprietor* the *chance of future increase* in the *number* of acres, and paying the difference according to the present value to the clergyman, from some other fund.

Fourthly, agriculture would considerably encrease. Fifthly, a degree of harmony, not to be interrupted by wrangles and contention with respect to Tythe, would be established between the clergy and their parishioners; than which, nothing can be more conducive to the interests of religion.

It may be necessary to repeat that the mode of commutation, which it is here intended to suggest (in case the *abolition* should not be deemed preferable,) as likely to be more acceptable to all classes, would be of that *compound* nature, in which a small charge not exceeding an acre should be imposed upon *all* lands, arable and pasture; the deficiency to the incumbent, to be paid from a fund to be created by an act of the legislature.

SECTION XXXIV.

Of Impropriators.

This description of persons has found few defenders; wherever the clergy come forward to advocate the cause of Tythes, leaving the impropriator to *shift* for himself, they contend *only* for the interest of their *own order*, in whose spoils

Upon a very difficult subject, I do not so much profess to give a perfect, as some materials for a perfect system.

they see with a natural and unaffected regret so many of the laity invested.

Henry the 8th. a Tyrant equally cruel and rapacious, by the assistance of a parliament as debased as the Senate of Rome under the emperor Tiberius, *dissolved* the monastaries in England and Ireland and seized on their possessions whether lands or Tythes, which instead of being bestowed on the *secular* clergy (the parish priests) were from time to time granted by letters patent to different persons of the laity (a). From this it has happened that so large a portion of Tythes and lands no longer form a part of the property of the church in either country, but have vested in *lay* lands under the denomination of *impropriations*.

(a) By the of Hen. VIII. monasteries were *dissolved* in England alone. So *extensive* was the influence of the *monks* that large possessions in Ireland had been annexed to religious houses in England. Sect. 28th. Hen. VIII. cap. 23rd. giving to the crown divers advowsons churches Tythes &c. in Ireland before appropriated to the monastery of Rentshame in England.

(b) How large a tract of country might be redeemed from Tythe by ~~finding~~ the expence of a single year of war. *Twenty thousand pounds* have been lately granted by the legislature for the *draining of bogs in* Ireland, a project of very problematical utility.—This sum would have discharged from Tythes more than twenty thousand acres of land in some of the best cultivated parts of Ireland, and double, perhaps *treble*, the number in the worst.—Suppose the product of the window tax to have been applied since its commencement, to the exonerating the nation from Tythes in the *purchase of impropriations*, or to the payment of the interest of a sum borrowed for the purpose, what a large portion of the kingdom might by this time have

Having no certain document upon the subject, but apprehending that one *third* of the Tythes of Ireland may be considered as impropriate, with respect to this portion of Tythe property it would, in order to an *abolition*, be expedient that by a legislative act a *fund* should be created for the *purchase* from time to time of *impropriations*, the operation of which there can be little doubt would in a short time extinguish Tythes by *purchase* in *one third* of the kingdom.(b)

In like manner the livings in the hands of the clergy to be estimated as to their value *commu-*

been discharged from Tythes—— By the way this tax with the *improvements* that have been made upon it must *now* produce an immense sum. Upon its first introduction the chancellor of the exchequer (of that day) estimated it at *sixty* thousand pounds. A member of the house of commons exclaiming that it must necessarily produce a *great deal more!* he coolly replied "well, if it does, it will be *all* wanted." The prediction has been fully verified—the *window* tax is more severely felt in Ireland than in England, from a variety of causes.—The cheapness of all things (to speak comprehensively) that constituted the establishment of persons in the middle ranks of life. And, from the *absence* of this tax, Irish gentlemen possessed of an income of *one thousand* a year (upon which a family might twenty years back have been supported with some degree of elegance) were in the habit of building houses *superior* in appearance to those of a corresponding rank in England —and so in proportion.

To *lessen* the pressure of the *window* tax, in many *new* houses, the *number* of lights are as much as possible diminished. At the same time to supply the deficiency, windows of a *barbarous* form and construction are substituted in defiance of symmetry, convenience and beauty.

nibus annis for the last *three* years and the amount paid from the national treasury; all *glebes* to be preserved to the church, and new ones where they are wanting to be purchased, A thing to be effected without difficulty merely by offering such rate of purchase as may tempt the proprietor, of lands to sell. The *right* of *presentation* to remain as under the present system, except as to advowsons formerly in lay lands which should be vested in the bishops of the respective dioceses.(c)

Such are some general outlines of a plan for the *abolition* of Tythes (in case it should be deemed preferable to a *commutation*) easily carried into effect like that of the *slave* trade wherever the legislature shall apply itself seriously to the purpose. But, if it be asked, how, or whence the *fund* is to arise which shall compensate the clergy for the privation of their ancient provision? I answer, that for so popular a purpose it will be as easy for a modern financier to *create* a fund or to devise appropriate taxes

It is worth remarking that it is not more than *sixty* years since the square or parallelogrammic form of building has been introduced in Ireland, and, at nearly the same period, the *thatched* roof began to be superseded by the *slated* one. About the same time, four wheeled carriages became common; the number of those, from obvious causes is rapidly diminishing, having given way to vehicles of an inferior description and of anomalous shapes and kinds. When we consider the materials which compose the structure of a modern chariot we cannot,

as for the advancement of any other national or beneficial purpose

SECTION XXXVI.

Of the Fluctuation in the value of Tythes.

It is somewhat surprising that a circumstance, which ought to have considerable weight in the judgment, to be formed upon

We cannot tell which ought most to surprise, the modesty of the persons who require two, three, (and frequently more) hundred pounds for the purchase—or, the *folly* of those who submit to give such exorbitant prices. And a similar Remark may be made with respect to vehicles of an inferior description.—I give the following anecdote, as I received it, a gentleman agreed for the purchase of a chariot at *two hundred Guineas*, he drove it *twice* in the streets, and being unable to pay according to agreement, proposed to return it, allowing a reasonable compensation for the use; upon stating his inability, the maker agreed to take it back, upon terms, of *passing* his *bond* for *one hundred and fifty Guineas*!—In this way it should seem that fortunes may speedily be made.

It is remarkable, that in the trade in question, the prices have *increased* as the demand has *lessened*, an observation in these times perhaps equally applicable to many others, and to be accounted for, perhaps by the very circumstance.

(c) In some parishes the Tythes are wholly *impropriate*, in others, the rectorial Tythes only, the measure suggested could act only *secundum subjectam materiem*.

the general question of Tythes, is allowed to pass with little observation.—I mean the *fluctuation* before adverted to, that so often takes place in the same parish or district, in consequence of the decrease as well as increase of agriculture.—We see lands as frequently converted from *tillage* to pasture, as from *pasture* to tillage, and it is certain that almost *all* lands that are adapted to tillage, may easily be rendered fit for pasture, tho' the *converse* is not equally true.

To revert to the case of college livings; the amount of the clergyman's stipend being paid by the treasury, or by commutation, the convenience of receiving a *fixed* revenue would compensate for any deficiency that might arise in an income, which must always be considered of a fluctuating nature, and even admitting it to be difficult to determine, from what we at present witness of the consequences of war and taxation, to what degree the value of money may hereafter be depreciated, we may safely conclude that whilst the constitution of these countries exists, and a respect for social order remains, the situation of that class of the community upon whose exertions, the education of the rising generation, and the morality of the people, may be said principally to rest, will not be suffered to pass unnoticed or neglected.

SECTION XXXVII.

That population may increase to a state of inconvenience, in a country peculiarly circumstanced like Ireland, has been before observed; and, that a *numerous*, may in time, become a *burthensome* population. Theorists, who under a mistaken idea of philanthropy would *subdivide* land into very small portions, ought to recollect that whenever in consequence of this system, the population of a country, purely agricultural, becomes excessive, if manufactures are not introduced or encouraged, nothing remains but to colonise or emigrate. But, in the present state of Ireland, whatever may be urged in favour of the benefits to be derived from agriculture, it cannot be denied that the labourers and peasantry, who form the most numerous class of the community, derive their more regular support from the gentlemen of moderate fortune, who *reside* upon and improve their own

(a) According to Juvenal, in a country town of Italy, the *fee simple* of a *whole* house, might be purchased for what the hire of a *garret* cost at Rome for a year.

Aut fabrateriæ domus aut frusinone paratur
quanti nunc *tenebras* unum conducis in annum.
Juv. Sat. 3. 210.

Generally speaking similiar causes, will in every country produce similiar effects; yet, I cannot now inquire whether in the age of Juvenal the exemption from taxes, enjoyed by the inhabitants of Italy, from a certain period, had ceased or not.

estates. It is this useful order which taxation and war long continued tends fast to extinguish,—unequal to bear up against the pressure, or to preserve a reputable appearance upon *that* revenue which formerly allowed them to make useful improvements in agriculture, to look beyond self, and to give

(b) That houses, particularly *small* ones, have of late become so dear in the metropolis has been matter of speculation; one predominant cause is however at hand.—The difficulty of maintaining a respectable appearance in the *country*, in consequence of the rise since the commencement of the war, in the prices of the decent conveniencies and necessaries of life. No genteel family can dispense with the convenience of a *covered* carriage to convey them even to the parish church.—The heavy taxes upon servants and horses, renders the keeping of such a one of *serious* importance to persons of moderate fortune—by *residence* in *towns* besides the advantages of society, the necessity of equipage and of supporting that hospitality, (the memory of which may perhaps remain a few years longer in the country) is superseded.—The opportunity of educating a family, at a more *moderate* expence than at boarding schools, adds another inducement.—The situation of the instructors of youth, and of teachers at public seminaries, seems to have much improved since the satirist wrote.—*Occidit miseros crambe repetita magistros*; whether we understand the line literally or otherwise,—at this moment of *alleged* depression for I do not think it *real* in almost every *other* trade, that of *building* at least, seems to suffer no decline as fast as houses are reared the migration from the country furnishes tenants; and, at the builders own prices.

It is evident that whatever sum a resident country gentleman might have expended in *wages* to *labourers* is by a removal to a town either saved or directed into another channel.

something to hospitality and to the relief of the indigent within their vicinity; Some, deserting their family habitations, croud into cities as less expensive than the country; while others repair to a *cheap* part of England. (where from the long operation of similar causes, niggardliness has been reduced to a system) From the same causes it may hereafter be that *cock lofts* in *cities* will be sought for at extravagant prices, whilst in the country; *castles*, respectable for their antiquity; and mansions, the work of improved science; will either be deserted, or inhabited by the lowest of the people (a). Plantations, that might shade; and *villas*, that might adorn a country naturally beautiful, will cease to rise; and, instead of that variety which constitutes the charm of rural scenery, to the sensible mind, the face of Ireland will present a naked and unblended prospect of lands infinitely *subdivided* and devoted to the plough (b).

The advocates for *war*, and the *union*, may then enjoy a temporary triumph. But the triumph will be at the expence of ornament,—manners—and civilization.

SECTION XXXVIII.

Of Tythe Agistment.

I feel somewhat at a loss to know what might have been the nature of this species of Tythe in Ireland, if it had neither been suspended by a vote of the house of commons, nor abolished by an act of the legislature at the time of union. Originally, the term *agistment* signified the depasturing of cattle for hire upon the wastes of the lord; but taking it according to its more general acceptation, it never could have been so important as to deserve the regret that seems to have accompanied the loss of it For, first, the clergy and proprietors of Tythe receive, and have uniformly received Tythe for *sheep*; and, upon general principles, *dry and barren cattle* of the *horned kind*, could not have been liable to Tythe, as yielding no yearly increase. Again, if we suppose it confined to *milch* kine, it could not have been of much moment, as graziers, who principally occupy the pasture lands seldom have many cattle of that description. Besides the claim to a Tythe of this nature, must have been founded upon *custom* as to the mode and the amount, of course, at this day, of little value (a).

(a) I have not been able to learn how Tythe agistment is regulated in England.

SECTION XXXIX.

Abstracted from considerations of domestic inconvenience.—It may deserve the attention of the legislature, that Tythes have of late assumed a more serious aspect and become a question *politically* of moment.

When Emmett, (a) published his *revolutionary* proclamation, the *first* article proposed the *abolition* of Tythes. Whoever aims at a subversion of the existing constitution, will naturally look to whatever seems most likely to

(a) The annals of *private* life do not often furnish an instance of reverse, so severe as that experienced in this family—of *three* sons of Doctor Emmett, (state physician) the eldest (Temple) called to the Irish bar in 1783, outstripping all his cotemporaries, ran a short, but most brilliant career, in the flower of his age, on the eve of attaining the highest honors in his profession, he was carried off by a rapid fever. Upon his decease, the second (Thomas Addis) relinquishing the medical profession into which he had just entered, assumed the gown. Unfortunately! (for there can be no doubt he must have *succeeded* at the bar) he became a convert to the principles of the French revolution.—A member of the Irish directory,—and is now, an exile in America (b). The third son (Robert) of equally splendid abilities, (as I have heard) embraced the principles of his second brother. The father lived to see the rising honors of his family, *fade* with his eldest son. Witnessed the banishment of his second: But, happily was spared the pang of beholding the youngest expire upon a scaffold! The premature death of the eldest, seems to have been fatal to the younger brothers, as it is probable his ascendant might have fixed their destination,

procure adherents to the cause; and, certainly such is the aversion to the Tythe system in Ireland, that hardly any proposition could be better calculated to unite to a point a very numerous description of the people.

SECTION XL.

Short Analysis of the preceding Sections.

I have considered the high rate of Rents amongst other circumstances, as uniformly *aggravated* by an overflowing population, unrelieved by trade and manufactures. The *want* of which in Ireland, paradoxical as it may seem, is attended with effects similar to that which the possession of *both*, produces in countries more happily circumstanced. In other words, that the Rent of land is artificial, regulated by *competition*, and not by the value of the product.

(b) I happened to be in a room, adjoining the *old* four courts (where the bar usually dressed) on a day, that *Thomas Emmett* had spoken with ability upon some popular question, *when* a young barrister, (supposed under the patronage of the castle,) who had just heard him, came in exclaiming "the d—l *m-nd go—rn——t.* If they had giv-"en Emmett *two or three briefs* on circuit, as they ought "to have done on his first coming to the bar, he would not "now be a *thorn* in their side." This gentleman seems to have *measured* by a standard not unlike that of sir Robert Walpole.

Having assigned for this redundant population the most obvious causes. I have endeavoured to demonstrate, that unless adequate employment, from other sources is furnished in aid of that derived from agriculture, the *subdivision* of lands into small portions, tho' a tempory relief, leads in its progress to poverty and discontent in the lower orders, whilst it encreases population. A corresponding effect to which may be observed in a higher rank in private life. Whenever the younger members of families, are not put forward in professions, the descendants, portioned from, and living upon the estate, become poor, where the ancestors flourished. Considering the subject of Tythes as connected with the two former ones: The rate of Rents in a considerable degree, influenced by the abundant population. And the pressure of Tythes (tho' injudiciously assigned as the exclusive cause of poverty and discontent, in some part of Ireland) is increased by the pressure of Rents. I have submitted my ideas upon the different subjects of *commutation* and *abolition*, regarding the latter, as more expedient and particularly necessary in a country where Tythes have been usually compounded for, and where the abolition of Tythes has been made, and may at any time be held forth, as a specious inducement to *insurrection*. But I have not in the examination of the subject, assumed the common absurd opinion, that the adop-

tion of one measure or the other would in reality benefit in any great degree, the labouring classes of the community who suffer *directly* from the want of a sufficient demand for labour. On the contrary, I have wished to inculcate, that the advantage from the introduction of a new system would be found in the establishment of *harmony*, and the increase of agriculture, amongst those who now occupy their lands in grazing and pasture. The *resident country gentlemen* more useful in the scale of the community than statesmen or advocates of the *mercantile* system seem disposed to admit, a sensible diminution of whose numbers will be speedily felt in the retrogression of order and civilization in a country, not long since rapidly advancing to both.

In conclusion: I have considered the proposed innovation, as it might seem likely to affect the *Protestant* establishment under existing circumstances. (a)

(a) Previous to the year 1782 a respectable Roman Catholic was heard to declare, that if *going to Church* was allowed to be sufficient evidence of conformity to the Protestant religion, almost every gentleman of that profession would conform.—"But how" said he, "as matters stand "at present, can it without indecency be required that a "person embracing a particular sect of christianity, should "pronounce the tenets of that which he has relinquished, "*damnable*." I cannot find at this instant the *form* of the recantation alluded to, and am aware of its having been

SECTION XLIII.

The Institution of Orange Lodges.

These voluntary associations under a title perhaps injudiciously chosen at the time of the *Rebellion* 1798, have been the subject of much animadversion. Though we may be convinced that their principle was that of *self* defence, yet it was supposed to have a more hostile tendency by the Roman Catholics of all descriptions, who never reflected that the appellation was perhaps assumed merely in imitation of the name of *United Irishmen*, adopted by the persons engaged in that rebellion, and who were of *all* religious persuasions. Their reasoning seems to have been to this effect.

"It is well known that the aim of the Uni-"ted Irishmen, was to establish an independ-"ant Republic."—The constitution established

urged, that the objectionable *term* is not *there* used in its strongest import; yet, at this day (when it is perhaps immaterial whether this gentleman delivered the sentiments of an individual, or of a numerous class of his persuasion) it must be admitted, he spoke the language of good sense.—The transactions of subsequent years, and particularly in the Rebellion of 1798, widened a breach, which the intercourse of social life had hardly closed.

(b) In fact I cannot perceive the connection of Tythes with the security of the Protestant establishment, which I trust will never be shaken.

at the Revolution was favourable to principles of liberty, at least was not in direct opposition to them. Therefore, the Roman Catholics conceiving that it was not against the political principles, which had been formerly imputed to them, as supporters of James the Second, and which no longer ~~subscribed~~, that these associations were formed, seem to have concluded, tho' erroneously, that they were directed against them, as *persons* of a different religious persuasion.

But it ought to be remembered, that every institution or symbol tending to impress an opinion of this kind must produce rancour and animosity between the inhabitants of the same country. At the distance of time, which has since elapsed, even the Roman Catholic ought to rejoice at the victory of king William over James;—who, had he been successful, would have reduced all his subjects to complete slavery. It may not be unreasonable also to conclude that at the time of the Revolution, which placed William on the throne, when the principles of liberty were but *ill* understood, the Roman Catholics of that day were not aware, that they were contending for the establishment of *arbitrary* power. (a) But however this may have been, if they *now* feel persuaded that certain institutions or anniversary processions are intended as a display of triumph over a fallen party, it would become their countrymen to respect their feelings or their prejudices.

It is thus that *Protestanism magnanimously* might display itself in the most liberal point of view, and it reflects credit on the nobleman (a) who represents majesty in this kingdom, whilst I write, that with a wish to conciliate the affection of the people of Ireland to each other, he, (as I have heard,) discourages every thing that has a tendency to divide them.

SECTION XLIV.

Upon the Sobriety of People.

If any person could have entertained doubts that the character of nations and of individuals is connected with, and almost wholly dependant on, the influence of *moral* causes, with little reference to climate; an observation of the *sudden* improvement, which was

(a) The victory of king William over James the Second ought to be regarded as the victory of liberty over despotism, not with indecent exultation, the triumph of one Religious sect, or of one class of fellow subjects over another. The Roman Catholics of Ireland, who espoused the cause of James, chose their party *wrong*, and were, fortunately for their posterity, in the article of civil liberty, unsuccessful,

lately produced amongst the lower classes in Ireland, in the article of *sobriety*, (in consequence of the restriction of the Distilleries in the use of grain, and the consequent unprecedented rise in the price of Spiritous Liquors) would have served to remove them.—This restriction, combined with high duties, had the farther effect of inducing a disposition to the use of Malt Liquor; to the encouragement of the breweries; and to the advancement of decency and good conduct amongst the people; a matter of much more importance.—But, the prohibition no longer existing, and the *duties* upon home made spirits having been *diminished* one half; disorder and inebriety have again become predominant.

As it must be an object with a judicious administration to establish the *Breweries* of Ireland, a regulation so inimical to that measure, can only be ascribed to the apparent impracticability of finding, upon the spur of the occasion, any other source of revenue, equally productive, to sustain the pressure of public burthens—be that as it may, the raising a revenue from the *dissipation* of the lower orders, ought not long to be persevered in, and particularly, as it is clear, that the Breweries, properly encouraged, and obliged

to furnish an unadulterated (a) beverage to the people, would in a short time supply a source of revenue sufficient to countervail, that *now* derived from the Distilleries at the expence of morals and good order.

(a) Nothing can so much discourage the consumption of Malt and Spiritous Liquors, as an opinion that they are not to be had without adulteration—an opinion, countenanced by the late proclamation against the use of the *Cocculos indicus* and other pernicious ingredients; and now, so *prevalent*, that merely from a regard to *health*, many people prefer purchasing that which is manufactured by unlicensed Distillers.

Some time back, it was mentioned in a public print, that the *porter* brewers of London applied to the *court of King's Bench* for an *information* against the publisher of a paragraph, stating "that porter was an adulterated liquor; or to that effect.—The court *refused* the motion without an affidavit, containing a *denial* of the charge—I have not heard whether the affidavit required, has been since made or not, but, upon the same principle;—*justice*—to the health of the community, seems to demand that Brewers and Distillers should not be allowed to exercise their calling without previously (in each year) *making affidavit* before a magistrate, that they would neither use nor suffer to be used, in their business any ingredients of a pernicious quality.—In *mercy* to the middle classes, *duties* upon *wines* ought to be lowered, as ale and porter are suitable only to those who use the most laborious exercise.—"If you *drink ale*, you will *think ale*," was the expression of a humourist whose name I have forgotten.

SECTION XLV.

Of War in General.

" The people" says Hume, " are greedy of war till they *suffer* by it. An observation that seems to place human nature in no very amiable point of view; as if man, regardless of justice and religion, would, under the influence of self-interest, behold with a criminal indifference the misfortunes of his fellow-creatures. Altho' it would be difficult to produce an instance where the people at large have benefited by war, even when apparently most *prosperous* (a) Yet, as it is invariably true that *some are enriched* when it is most *unsuccessful;* perhaps, in the same proportion that *others* are *impoverished:*— and, as the virtue of the individual may be said to consist in a resistance to the evil propensities

(a) In time of *peace*, wealth is acquired by slow and progressive steps; *war* affords opportunity to some ~~other~~ classes of the community for speculation, and fortunes are frequently made as it were *per saltum.*——" Even in the *last* years of the French monarchy" says professor Meiners, " and amidst " very general distress and bankruptcy, great fortunes were " accumulated by some individuals. At that period the nobility were happy to be entertained or noticed by the farmers of the finances.——Hist. Female Sex.

The reader of the last volumes of that extraordinery work, will be inclined to deduce the French revolution from the progressive *depraved state of morals* in that country, from a much *earlier* period.

which must be admitted to have their foundation in the constitution or the corruption of human nature. It seems to belong to the *parental* duty of government and the legislature, to reject or disregard, when they appear to clash (as in the instance of the *slave* trade) with virtue and religion the representations of *any* description of the people.(b) Following the idea

(b) It is impossible to conceive a more decisive proof of the degeneracy of the human mind, under the influence of self-interest; or, which more demonstrates the necessity of the superintendance of a government resolute to resist, or to refuse compliance with the unjust requisitions of *any* order of its subjects, than the zeal with which the *merchants* fought that question of *conscience*—the Slave Trade—in both houses of parliament.—It would have been glorious for Mr. Pitt to have abolished this odious traffick. And it reflects immortal honour upon the memory of Mr. Fox, who succeeded him, that he speedily effected, *for the salvation of the nations soul!* (said Mr. Sheridan) what his rival *did not* —or, as it is now said *could not* accomplish.

With respect to the slave trade. It has appeared from the *fourth* report of the African institution (I cite from the *Edinburgh Review*, for August, 1810.) " That, in *defiance of the penalties imposed by the legislature*, vessels under foreign flags have been fitted out in the ports of Liverpool and London, for the purpose of conveying slaves from Africa to the Spanish and Portuguese settlements in America. That several adventures of this description have been actually completed"—and " that the persons most deeply concerned in this nefarious traffick, are *citizens of the United States*, trading under Spanish and Swedish colours."——But what will be thought of the baseness of the human heart, under the dominion of *mercantile avarice*, when it is found stated in the same report " that

——If a war, in which the nation should at any time be engaged, should be represented to

very *lately* it had " been discovered that a large vessel " (The Commercio de Rio) *in violation of the abolition* " *acts, was fitted out in the port of London* with all the " infernal apparatus of *chains, padlocks, manacles, foot-* " *irons,* bad provisions, and miserable accommodation " for about *eight hundred* Africans? *British capital* was " risked at such an adventure.—*British merchants*—tho " very men who pretended to rejoice, when the last negotia- " tions with France were broken off, because they could not " endure any amicable connexion with a tyrant like Buonaparte —" The very men who affected such horror at his cruel pro- " ceedings in Spain, and risked even a little of their tenderly " cherished stock, in subscriptions for the suffering Spaniards. " —Those men (let us, however, hope but a few of them,) " were found busily engaged in a mercantile adventure, the im- " mediate object of which, was to lay waste whole territories of " a peaceful, happy, and offending country; nay, almost " unknown, country; and carry off in irons, and under scourges, " the flower of its people, into the utmost horrors of a servi- " tude, compared with which, every thing that the most " wretched conscript of Buonaparte can endure, is proud do- " minion, and the lot of all other slaves, luxury and ease."— To the animated language of these philanthropists, it can only be added: That whoever does not raise his voice against this accursed traffick, is *quatenus* a *participator in the criminality of those who are actually engaged in it*—and that religion and morality call loudly upon the legislature to annex to the violation of the law in this instance, when clearly and substantially proved, the sanction of *capital* punishment. The curious upon the *slave trade in general* may consult Mr. Pinkard's notes on the West-India islands, a recent publication.

" Among the many changes which have taken place" says a modern writer, " in these eventful and unhappy times, there is none perhaps more deeply to be lamented, or which has had a more powerful effect in deteriorating the public mind,

be a *war for commerce*, it would be right to consider whether providence has not designed a

than the ascendancy which the commercial aristocracy have of late years gained over the whole landed and hereditary aristocracy of these kingdoms. We know not a more respectable and valuable character than the real merchant, and we esteem him accordingly.—The money-changer, the usurer, the loan-contractor, the stock-jobber, and all the locust tribe of pay-masters, commissaries, contractors and agents, *whose equipages shine like meteors;* and *whose palaces rise like exhalations* —These men are objects of our supreme and sovereign detestation."—" These are the men" Dr. Johnson well observed, " who, without *virtue, labour, or hazard,* are growing rich as their country is impoverished; they rejoice when obstinacy or ambition *adds another year to slaughter and devastation,* and laugh from their desks at bravery and science, while they are adding figure to figure, and cypher to cypher, hoping for a new contract from a new armament, and computing the profits of a siege or tempest."

" The men who have thus grown rich on the miseries of their country, constitute the bulk of the monied aristocracy, and in the arrogance, ostentatious expence, and *eastern luxury,* far exceed any of the old and noble landed aristocracy. Almost filling the house of commons with their creatures, they have of late aspired to seats in the house of peers, and in some instances their ambition has been gratified."

Memoirs of the Prince of Wales, vol. 3d. p. 213

It were well if some balance could be maintained between the *monied* and the *landed* interests. But the frequent recurrence of war, which tends to accumulate property in a few hands (among other fatal consequences) of necessity inclines the scale in favor of the former, and gives a decided influence in the state.

certain share of that advantage for the different nations of the earth according to their relative capability and situation. And, if this be conceded, whether it be not in the face of that dispensation to endeavour to establish claims, not tenable upon the grounds of natural justice, by the argument of superior force?—Above all, it might in a *moral* point of view, be usefully remembered, that any claim to the *special* favour of providence, by any *particular person* or *people can only be founded upon a superior or more faithful observance of the relative duties between individuals and nations.* In conformity with these ideas; if through motives of ambition or avarice, the people incline to war, it becomes the *duty* of their rulers, standing in *loco parentis*, to restrain a disposition to violence; however profitable the indulgence might eventually become to some individuals of the society which they govern.

" In great empires" says Smith, " the people who live in the capital and in the provinces remote from the scene of action, feel, many of them, scarce any inconvenience from *war*, but enjoy at their ease, the amusement of reading in the newspapers the exploits of their own fleets and armies. To them, this amusement compensates the small difference between the taxes which they pay on account of the war, and those which they have been accustomed to pay, in times of peace. They are commonly dissatisfied with the return of peace, *which puts an end to their amusement*, and to a thousand visionary hopes of conquest and national glory." It were to be wished that some one would define the difference (if any) between the character of a *good man* and what is called a *good citizen*.

But however this may be, upon general principles; and whatever may have been the motives or the necessity which *first* involved these countries in a contest with France, *previous* to the unprincipled invasion of Spain; the historian of a future age must record, that the intervention of Great-Britain, in endeavouring to rescue that kingdom from the *domination* of an invader, was justifiable upon grounds the *most legitimate. Injustitiæ duo sunt genera*" says the great master of Ethics, "*unum eorum qui inferunt alterum eorum qui ab eis quibus infertur si possint non propulsant.*" And altho' *war is in general* to be deprecated as the greatest calamity that can afflict the human race(c) and I have been obliged as connected with my subject, to advert to the fatal consequences of that evil, when long protracted, to *certain classes* of the community; yet it must be admitted, that the support of the war in its present stage for the *preservation of Spain*, seems to require and demand every exertion in the power of the people.

(c) *Est Diccarchi liber de interitu hominum peripatetici magnò et copiosi: qui collectis cæteris causis, clavionis, pestilentia, vastitatus bélluarum etiam repentinæ multitudinis, quarum impetu docet quædam hominum genera esse consumpta: deinde comparat quanto plures, deleti homines, hominum, impetu,* id *est bellis,* aut *seditionibus,* quam omni reliqua calamitate.

Cic: de Officiis Lib. 2.

SECTION XLVII.

To entertain for the safety of the British empire the most remote apprehension, except from the consequences of *internal* dissentions seems perfectly chimerical.—*Collected in her strength —resting upon her naval force—and upon her own element*—Great-Britain might ever be triumphant over *all* the powers of Europe, even combined under a single head. It seems a dispensation of providence that *Islanders* should possess from nature, an ability for *naval* affairs, superior to their *continental* neighbours.——After the memorable engagement in which lord Howe commanded, in 1794; the French commissioner, who had been a spectator of the action, declared in his report to the convention, "that there was something of *precipitancy* in the French character, ill adapted to the *sea-service*, and unequal to contend with the *coolness and precision* of the English."(a)

(a) Illustrative of a *peculiar* temperament, a singular relation occurs in the "Memoirs of the Baron de Bielfeld."—"It is" says the baron, "a *certain fact*, of which I have been an ocular witness, that if an *Englishman* in full health, holds the bulb of a good thermometer in his hand, the mercury will rise *higher* by *two or three* degrees, than in the hand of an individual of any *other* nation." [Bielfeld's Memoirs, vol. 4th. p. 142.]

A bad anatomist—I am ignorant whether so remarkable a peculiarity is indicative of greater heat, or of stronger muscular power in the heart—or, of both.——To the more rapid circulation of the blood, this writer seems to ascribe (erroneously I think) the superior activity and perseverance displayed in the English character.

SECTION XLVIII.

I should now pass to a subject more *interesting* in every point of view, than any that have been touched upon in the preceding pages.—— But a gentleman of competent information having professed to give what he calls "*Anecdotes*" of the Union.(a) Unacquainted with the scope of his undertaking— I shall for the present suspend entering more fully into the examination of that momentous measure. Yet I do not hesitate to declare, that (so far as reflection and some degree of observation can enable me to judge) the *act of legislative union* between Great-Britain and Ireland, ought to be *repealed*(b)

(a) Sir Jonah Barrington has published the first and second numbers of a work (I suppose introductory to a history of the Union) which I have not yet been able to procure, and can only conjecture the object from the title.

(b) If I should hereafter investigate the policy or the consequences of the *Union*, a review of that important transaction would necessarily present to an English reader, the *prominent* idea that— if Ireland had been supposed at any time to aim at that independence, which her geographical limits, and the general injustice of mankind seem utterly to forbid.—A resident legislature would be more effectual to preserve the connexion with Great-Britain than a garrison of *one hundred thousand men.*——In the most tempestuous times the parliament of Ireland firmly adhered to England.

Mr. Pitt seems to have taken (amongst other things) his idea of the *Union between Great-Britain and Ireland* from the author of the "Wealth of Nations." Who, in the last

to insure the tranquility of Ireland and the stability of the British empire.

chapters of his admirable work, discovers, and declares his opinion of the utility of such a measure to both countries.—But, what shall we say to the blindness of genius and talent, exerted in support of a favorite though visionary project—when, almost in the same pages, this writer speaks of *a Union of Great-Britain and the colonies of North America as eligible and practicable*—upon a similar principle of representation proportioned to contribution.—Pursuing this idea, *(truly Utopian)* America was in process of time to become *the seat* of *government* and *of the united parliament* of the empire; whilst England and Ireland were to be administered, we are to presume by *viceroys* deputed from beyond the Atlantic.———From any pen less respectable, opinions of this kind would be accounted ridiculous—Great-Britain would *never* have submitted to become a *Satellite* instead of the *centre* of a system.——— Pride, injustice, and arrogance may have *accelerated* the separation of America; and it would have been pleasant to have parted *friends*. Yet, the most disinterested adherence to justice on the part of the mother country, could only have *delayed* to a period somewhat more *remote;* A *severance* imperiously prescribed by the relative magnitude and situation of both countries. A *passion* for *simplification* in the forms of government, has been always predominant with statesmen and theorists.

APPENDIX.

SEARCH WARRANTS.

The words of Mr. serjeant Hawkins writing upon this subject, are as follows.—" I do not " find any good authority that a magistrate can " justify sending a *general* warrant to search all " *suspected* houses in general for stolen goods. " For it would be extremely hard to leave to " the discretion of a common officer to search " what houses he thinks fit"—[2d Hawkins, 82, Sect. 10, 84; Sect. 17.]

Sir Mathew Hale, upon the same subject, after delivering his opinion upon the great utility of this process in the discovery of felons.—In the preparing evidence against them—and in the helping persons robbed of their goods.—Expresses himself in these terms:—" Search war- " rants are not to be granted without oath, made " before the justice, of a felony committed; and " that the party complaining *hath probable* " *cause to suspect that the goods are in such a* " *house and place;* and doth show his reasons " for such suspicions"—and therefore (says this learned judge) " I do take it, that a *general* " warrant to search in *all suspected places* is not

" good, but only to search in *such particular* " *places* where the party assigns before the jus- " tice his suspicion, and the probable cause " thereof. For these *warrants* are *judicial* acts " and must be granted upon examination of the " facts."

The coincidence of these great authorities in crown-law, though I do not know that there has been any express-legal decision upon the point, (unless the cases in the time of Mr. Wilkes should be analogous) may seem to have *determined* the law. Yet there appears a difference more than in TERMS, between a warrant for apprehending and seizing the authors, printers, and publishers of a seditious libel, together with their papers, and general warrant to search for *goods stolen*. In the one case—the difficulty of *determining* the *author*, &c. &c. *of a publication* might seem to invest the officer with too discretionary a latitude, In the latter, the law seems founded on *a fastidious regard* to the liberty of the subject and prejudicial to *himself*, that would preclude (*oath* being first made of a loss) a bona-fide search from the *peasant to the peer*, under proper restrictions.—But however the law may in this case have been settled, (if it has been so) certain it is that warrants to search *generally* for *goods stolen*, have been heretofore uniformly issued in Ireland.—*Because*—to use the words of Sir Matthew Hale: " *they have been found of great utility.*"—Of late, however, the *assist-*

ant barristers having no doubt from a proper sense of duty, thought it right to publish the *illegality* of such warrants: and magistrates having with equal propriety and discretion ceased to issue them; the inconvenience has in consequence become very great, and even the lower classes of the people regret the alteration, and complain of it as an encouragement to theft and larceny. For, say they, "it is only in "one instance in a hundred that we can assign "due cause of suspicion as to any *particular* "place; and should we be mistaken, the person "whose house has been searched under such spe-"cialwarrant, is sureto resent it; whereas, when "the warrant is *general* and the search *general*, no "person is offended." Besides, while the practice of issuing *general* search-warrants prevailed, it frequently happened that the goods were found in places *not* suspected, and discoveries were made of articles formerly stolen, though not comprehended in the warrants.

Under a persuasion, in common with other magistrates, of the *utility at least of* the former practice. It is with due deference, submitted to the wisdom of the legislature, to enact, that in future, upon oath of *goods stolen* of any description, by persons unknown, *or taken by bulglary or robbery*, it shall be competent to a justice of peace to issue warrants to make *general search* in all places within his jurisdiction, under *proper restrictions*, of which, one should be made (a point

not clearly settled) that it should be made in the *day time* that such warrants should not be made a cover for serving or executing any other law process. Any such process or execution served or executed upon the person or property of any person under colour, of the time of the execution of a search warrant, to be absolutely *void:* the constable, or officer to be liable to an indictment, or answerable in an action upon the case for any outrage committed in the execution of the warrant. *Such a provision would belong* to *preventing*—more desirable than *punishing*, Justice.

By an act 7th. and 8th. of Geo 3d. cap. 23d. It is enacted, that it shall be lawful for any constable, officer, or other person by warrant, under the hand and seal of any one justice of peace, granted on *information upon oath*, to make search in all *suspected* places for any wood, trees, poles, or timber, &c.——Quere——under the *true construction* of this act,—is it sufficient to make oath of the *loss* to entitle the party to search *generally*, or *wherever he thinks proper?*—Or, can he search *only in places specified* in his information *as suspected?*——It is only according to the *former* construction, that the act can be of real utility.——Yet, upon this point, magistrates are much at a loss.

NATURAL CHILDREN.

However consonant it may be to natural justice, that the father of an illegitimate child should maintain it; as the law now stands *in Ireland* he is not compellable to do so. In *England*, from a principle of *indemnifying the parish*, the father may be committed by virtue of special acts of parliament, to abide the order of the sessions. But, as in *Ireland*, *the parish* is *not* bound to maintain illegitimate children, the consequence is, that (as no action can be maintained at law against the father) the whole burthen of the sustenance of such children is thrown upon the mother frequently, from poverty and situation, unequal to the charge. A remedy in this case is certainly wanting, which besides relieving the unfortunate female, might operate to check the immorality of the other sex, now greatly encouraged by a knowledge of the imperfection of the law in this particular.——It is proposed that the affidavit of the mother, after the birth of an illegitimate child, charging a particular person as the father, and transmitted to the clerk of the peace, should lay a foundation for any person nursing or maintaining such child (other than the mother herself) to process or sue by civil bill before the *barrister* at the sessions, such putative father for any sum not exceeding the rate of *five* pounds a year. The party sued to be allowed to make every legal defence; and a decree or dismiss accordingly, with appeal to the assizes as in other cases.

WEIRS.

Twenty thousand pounds has been lately granted by parliament for the purpose *of draining and improving bogs* in Ireland. Upon a similar principle the purchasing up, or lowering *weirs* of every description, where necessary and practicable would be a measure of great utility, rendering productive perhaps a million of acres *of land* now injured or destroyed by these nuisances.—In every case when a weir should be lowered the standard height ought to be *registered* to guard against fraud, or future elevation.

LARCENY.

By a *subtility or refinement* of the *common* law, no *larceny or theft* could be committed of corn, grass, or the like, as savouring of the realty, or adhering to the free-hold; and the severance of corn, grass, rape, turnips, and the taking them away in the same instant, by night or day, remains merely a trespass.———It seems necessary that offences of this nature should be made punishable by fine and imprisonment.

TYTHES.

If it should be enacted that hereafter Tythes of every description should be sued for in the ecclesiastical court, (and there *only*) except in cases *under forty* shillings, in the summary way, leading to monition, &c. The tedious

process to the writ de Excommunicato capiendo (the only mode as it should seem of proceeding in that court, for the recovery of *customary* Tythes, or such as are not mentioned in the particular acts of parliament, which relate to the subject) might be avoided.

MORTGAGES.

Where a Mortgage *in fee*, becomes vested in a *feme covert*, as the law now stands, it can neither be reconveyed or assigned, except by *fine*; that is, by *matter of record*, a very expensive mode of conveyance, sometimes attended with the inconvenience of bringing parties from the most remote parts of the kingdom.——It would be an improvement to allow the same thing to be effected by *deed* or matter *in pais*, executed by the husband, or by him jointly with the wife.

PRACTICE OF THE COURTS.

It seems much to be wished, that upon sales under decrees, the practice of the court of *Exchequer* were assimilated with that of *Chancery*. It being indisputably true, that in many instances, where property has been sold under the decretal order of the *former* court a great deduction from the *fund* (sometimes insufficient for the discharge of the fair creditor) takes place, in consequence of considerable sums, being paid over to *former* purchasers for *interest* and costs. On the contrary, in *Chancery*

the *sale* being complete in *one* day, not to be opened, but by *special* applicatin to the court and that only upon the terms of paying off *former* purchasers costs and *ten* per cent in addition—this inconvenience does not occur in the *Exchequer*, as a party can come in at any time after the *first* sale, and enter his bidding in the books of the Remembrancer, without *special* motion: Lands, upon the *first* day's sale, never attain to any thing like the value, and there are sometimes ten or twelve entries of bidders, each exceeding the other by an inconsiderable sum, before the real value is arrived at. The expence of each bidding is about 5l.—and there are frequent motions upon behalf of former purchasers for their interest and *costs* which come from the fund of the *lands sold* and not as in chancery, from the pocket of the person who seeks to set aside a former sale. In consequence of this dissimilarity, it has sometimes happened that in a sale under the decree of the court of Exchequer, the fund has been diminished some *thousands*, paid in costs and interest to former purchasers.

Having always entertained a hope—vain hope!—of returning to *professional* life, my *books* have (with few exceptions) remained in Dublin; a trifling circumstance, which I only mention to excuse in some measure, any inaccuracy, upon *legal* subjects occurring in the preceding pages.

POSTSCRIPT.

I had originally intended to refer to a future publication the consideration of the Catholic question; but, I find the subject so admirably treated, and indeed so nearly exhausted in the *Edinburgh Review*, for November, 1810, that, (altho' differing in some particulars of lesser moment) as my opinion, in the main, coincides with those of the authors of that judicious and elaborate work, upon Catholic emancipation, it would seem superfluous to enter upon it at large.

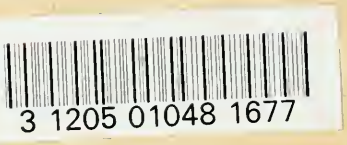
Without touching upon the abstract question of the justice of the Roman Catholic claims, I may be allowed to observe—*first*, that the anxiety, with which the chiefs of that persuasion solicit admission to the participation of equal rights with those of the established religion, furnishes a strong presumptive argument to prove the attachment of Catholics to British connexion and the constitution. And *secondly*, that it is palpably absurd and ridiculous at this period of time, to expect, that a numerous description of the people of Ireland, who possess an *unlimited* right of acquiring property, and, what is infinitely more *material*, are admitted to the learned and liberal professions, can

rest contented in an inferior or secondary state. It must at the same time be confessed (however it may be as to *compact*) that the having consented to a legislative union in the way of *barter* for civil or political rights, so frequently, and it should seem so injudiciously, brought forward by the Catholic advocates as giving a more equitable title to what is now demanded, constitutes, in one point of view, the lowest of the merits of the Catholics of Ireland.

That *emancipation*, as it is called, will be ultimately granted, there can be little room to doubt.—The tranquility, if not the safety of the empire seems to demand it: and the remarkable declaration of Mr. Pitt, " that ministers were " bound to preserve Ireland to the crown of " England, not more through the medium of " Protestants than Catholics" may be usefully remembered at this day.

May, 18*th*,
1811.

HJ
2287
G74
R433
1811



THE LIBRARY
UNIVERSITY OF CALIFORNIA
Santa Barbara

THIS BOOK IS DUE ON THE LAST DATE
STAMPED BELOW.

2/92 Series 9482

UC SOUTHERN REGIONAL LIBRARY FACILITY
AA 000 791 739 6